

Mr. Carter
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153

SENATE.

{ DOCUMENT
No. 148.

A4

PAPERS RELATING TO THE TREATY WITH SPAIN.

JANUARY 30, 1899.—Read and laid on table.

JANUARY 31, 1901.—Injunction of secrecy removed.

IN THE SENATE OF THE UNITED STATES, February 5, 1901.

Ordered, That there be printed for the use of the Senate three thousand copies of the instructions and all accompanying papers of the President to the commissioners who negotiated the treaty with Spain at Paris.

Attest:

CHARLES G. BENNETT, Secretary.

FEBRUARY 27, 1901.—Ordered reprinted.

To the Senate of the United States:

In answer to the resolution of the Senate of January 6, 1899, requesting the President, so far as in his judgment not inconsistent with the public interest, to communicate to the Senate "all instructions given by him to the commissioners for negotiating the pending treaty with Spain, and all correspondence between the Executive or the Department of State with such commissioners, and all reports made by them to him or to the Department." I transmit herewith a report from the Secretary of State, together with the papers called for by the said resolution, so far as it is, in my judgment, not inconsistent with the public interest to communicate them. The papers transmitted include "all instructions given by" me "to the commissioners for negotiating the pending treaty with Spain."

WILLIAM MCKINLEY.

EXECUTIVE MANSION,
Washington, January 30, 1899.

To the PRESIDENT:

The undersigned, Secretary of State, to whom you referred a resolution adopted in the Senate of the United States on the 6th instant, reading as follows:

Resolved, That the President of the United States, so far as in his judgment not inconsistent with the public interest, be requested to communicate to the Senate all instructions given by him to the commissioners for negotiating the pending treaty with Spain, and all correspondence between the Executive or the Department of State with such commissioners, and all reports made by them to him or to the Department—has the honor to lay before the President, with a view to their transmission to the Senate in answer to the foregoing resolution, should the President deem it expedient to so do, copies of the original instructions given to the American peace commissioners before their departure, together with copies of the reports and instructions exchanged by telegraph with the commissioners in the course of the negotiation,

excepting only certain matters of collateral import which, in the opinion of the undersigned, it would be inconsistent with the public interest to communicate, but which, however, in no wise affected the negotiation as between the United States and Spain.

The undersigned believes that the telegraphic correspondence so submitted contains all that is necessary to a full understanding of the peace negotiations, and therefore does not submit the more detailed reports received by mail after the cabled summaries and inquiries had been received and acted upon, inasmuch as they fully appear in all essential particulars in the protocols and accompanying papers already laid before the Senate with the treaty of peace signed December 10, 1898.

Respectfully submitted.

JOHN HAY.

DEPARTMENT OF STATE,
Washington, January 30, 1899.

LIST OF PAPERS.

1. September 16, 1898. Instructions of the President to the United States peace commissioners.
- 1A. August 26. Instructions to the Evacuation Commissioners of Puerto Rico.
- 1B. August 26. Instructions to the Evacuation Commissioners of Cuba.
- 1C. July 18. War Department, General Order, No. 101.
2. September 28. Mr. Day to the President. (Telegram.)
3. September 28. The President to Mr. Day. (Telegram.)
4. September 28. Mr. Day to the President.
5. September 28. The President to Mr. Day.
6. September 29. The President to Mr. Day. (Telegram.)
7. September 30. Mr. Day to the President. (Telegram.)
8. September 30. The President to Mr. Day. (Telegram.)
9. October 1. Mr. Day to the President. (Telegram.)
10. (No. 1). October 3. Mr. Day to Mr. Hay. (Telegram.)
11. (No. 2). October 4. Mr. Day to Mr. Hay.
12. October 4. President of France to the President.
13. October 5. Mr. Hay to Mr. Day. (Telegram.)
14. October 6. Mr. Hay to Mr. Day. (Telegram.)
15. (No. 3). October 7. Mr. Day to Mr. Hay. (Telegram.)
16. (No. 4). October 7. Mr. Day to Mr. Hay.
17. October 7. Mr. Hay to Mr. Day. (Telegram.)
- 17A. October 7. The President to Mr. Day. (Telegram.)
- 17B. (No. 5). Mr. Day to the President. (Telegram.)
18. (No. 6). October 8. Mr. Day to Mr. Hay. (Telegram.)
19. October 8. Mr. Hay to Mr. Day. (Telegram.)
20. (No. 7). October 8. Mr. Day to Mr. Hay. (Telegram.)
21. October 8. Mr. Hay to Mr. Day. (Telegram.)
22. (No. 8). October 9. Mr. Day to Mr. Hay. (Telegram.)
23. (No. 9). October 12. Mr. Day to Mr. Hay.
24. October 13. Mr. Hay to Mr. Day. (Telegram.)
25. October 14. Mr. Hay to Mr. Day. (Telegram.)
26. (No. 10). October 17. Mr. Day to Mr. Hay. (Telegram.)
27. (No. 11). October 17. Mr. Day to Mr. Hay. (Telegram.)
28. (No. 12). October 19. Mr. Day to Mr. Hay. (Telegram.)
29. October 19. Mr. Hay to Mr. Day. (Telegram.)
30. (No. 13). October 22. Mr. Day to Mr. Hay. (Telegram.)
31. (No. 14). October 22. Mr. Day to Mr. Hay. (Telegram.)
32. October 23. Mr. Hay to Mr. Day. (Telegram.)
33. October 24. Mr. Hay to Mr. Day. (Telegram.)
34. (No. 15). October 25. Mr. Day to Mr. Hay. (Telegram.)
35. October 25. Mr. Hay to Mr. Day. (Telegram.)
36. (No. 16). October 25. The Peace Commissioners to Mr. Hay. (Telegram.)
37. October 26. Mr. Hay to Mr. Day.

38. (No. 17). October 27. Mr. Day to Mr. Hay.
39. (No. 17A). October 27. Mr. Day to Mr. Adee for the President.
40. (No. 18). October 27. Mr. Day to Mr. Hay. (Telegram.)
41. October 27. Mr. Hay to Mr. Day.
42. October 28. Mr. Hay to Mr. Day. (Telegram.)
- 42A. October 28. Mr. Hay to Mr. Day. (Telegram; personal.)
43. (No. 19). October 29. Mr. Day to Mr. Hay.
44. October 30. Mr. Hay to Mr. Day. (Telegram.)
45. October 30. Mr. Frye to Mr. Adee for President. (Telegram.)
46. November 1. Mr. Hay to Mr. Frye. (Telegram.)
47. November 1. Mr. Hay to Mr. Day. (Telegram.)
48. November 3. Mr. Day to Mr. Adee for President. (Telegram.)
49. November 3. Mr. Hay to Mr. Day.
50. November 4. Mr. Day to Mr. Adee for President. (Telegram.)
51. November 5. Mr. Hay to Mr. Day. (Telegram.)
52. (No. 20). November 5. Mr. Day to Mr. Hay. (Telegram.)
53. (No. 21). November 9. Mr. Day to Mr. Hay. (Telegram.)
54. (No. 22). November 10. Mr. Day to Mr. Hay. (Telegram.)
55. (No. 23). November 11. Peace Commissioners to Mr. Hay. (Telegram.)
56. November 13. Mr. Hay to Mr. Day. (Telegram.)
57. November 15. Mr. Day to Mr. Adee for President. (Telegram.)
58. (No. 24). November 15. Mr. Moore to Mr. Hay. (Telegram.)
59. November 15. Mr. Hay to Mr. Day. (Telegram.)
60. November 16. Mr. Hay to Mr. Day. (Telegram.)
61. (No. 25). November 18. Mr. Moore to Mr. Hay. (Telegram.)
62. November 18. Mr. Day to Mr. Adee for President. (Telegram.)
63. November 18. Mr. Hay to Mr. Day. (Telegram.)
64. November 19. Mr. Hay to Mr. Day. (Telegram.)
65. (No. 26). November 21. Mr. Day to Mr. Hay. (Telegram.)
66. November 22. Mr. Day to Mr. Adee for President. (Telegram.)
67. November 22. Mr. Hay to Mr. Day.
68. (No. 26 A). November 23. Mr. Day to Mr. Hay. (Telegram.)
69. (No. 27). November 25. Mr. Moore to Mr. Hay. (Telegram.)
70. (No. 28). November 25. Mr. Davis to Mr. Hay.
- 70A. (No. 29). November 25. Mr. Gray to Mr. Hay. (Telegram.)
71. November 25. Mr. Hay to Mr. Day. (Telegram.)
- 71A. November 27. Mr. Day to Mr. Hay. (Telegram.)
72. November 29. Mr. Hay to Mr. Day. (Telegram.)
73. (No. 31). November 29. Mr. Day to Mr. Hay. (Telegram.)
- 73A. November 29. The President to Mr. Day. (Telegram.)
- 73B. November 29. Mr. Hay to Mr. Day. (Telegram.)
74. (No. 32). November 29. Mr. Moore to Mr. Hay. (Telegram.)
75. (No. 33). November 30. Mr. Moore to Mr. Hay. (Telegram.)
76. (No. 35). December 1. Mr. Day to Mr. Hay (Telegram.)
77. December 1. Mr. Hay to Mr. Day. (Telegram.)
78. December 1. Mr. Hay to Mr. Day. (Telegram.)
79. (No. 36). December 3. Mr. Day to Mr. Hay. (Telegram.)
80. December 3. Mr. Hay to Mr. Day. (Telegram.)
81. (No. 37). December 8. Mr. Day to Mr. Hay. (Telegram.)
82. December 8. Mr. Hay to Mr. Day. (Telegram.)
83. December 10. Mr. Moore to Mr. Hay. (Telegram.)
84. December 10. Mr. Day to Mr. Hay. (Telegram.)
85. December 16. Mr. Moore to Mr. Hay.

INSTRUCTIONS TO THE UNITED STATES PEACE COMMISSIONERS.

By a protocol signed at Washington August 12, 1898, a copy of which is herewith inclosed, it was agreed that the United States and Spain would each appoint not more than five commissioners to treat of peace, and that the commissioners so appointed should meet at Paris not later than October 1, 1898, and proceed to the negotiation and conclusion of a treaty of peace, which treaty should be subject to ratification according to the respective constitutional forms of the two countries.

For the purpose of carrying into effect this stipulation I have appointed you as commissioners on the part of the United States to meet and confer with commissioners on the part of Spain.

As an essential preliminary to the agreement to appoint commissioners to treat of peace this Government required of that of Spain the unqualified concession of the following precise demands:

1. The relinquishment of all claim of sovereignty over and title to Cuba.

2. The cession to the United States of Porto Rico and other islands under Spanish sovereignty in the West Indies.

3. The cession of an island in the Ladrones, to be selected by the United States.

4. The immediate evacuation by Spain of Cuba, Porto Rico, and other Spanish islands in the West Indies.

5. The occupation by the United States of the city, bay, and harbor of Manila pending the conclusion of a treaty of peace which should determine the control, disposition, and government of the Philippines.

These demands were conceded by Spain, and their concession was, as you will perceive, solemnly recorded in the protocol of the 12th of August.

By article 1 of that instrument Spain agreed to "relinquish all claim of sovereignty over and title to Cuba."

By article 2 she agreed to "cede to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and also an island in the Ladrones to be selected by the United States."

By article 3 it was declared that the United States would "occupy and hold the city, bay, and harbor of Manila, pending the conclusion of a treaty of peace which shall determine the control, disposition, and government of the Philippines."

By article 4 provision was made for the immediate evacuation of Cuba, Porto Rico, and other Spanish islands in the West Indies, as follows:

Spain will immediately evacuate Cuba, Porto Rico, and other islands now under Spanish sovereignty in the West Indies; and to this end each Government will, within ten days after the signing of this protocol, appoint commissioners, and the commissioners so appointed shall, within thirty days after the signing of this protocol, meet at Habana for the purpose of arranging and carrying out the details of the aforesaid evacuation of Cuba and the adjacent Spanish islands; and each Government will, within ten days after the signing of this protocol, also appoint other commissioners, who shall, within thirty days after the signing of this protocol, meet at San Juan, in Porto Rico, for the purpose of arranging and carrying out the details of the aforesaid evacuation of Porto Rico and other islands now under Spanish sovereignty in the West Indies.

The commissioners referred to in the foregoing article have been appointed, and they are now in session at Habana and San Juan, respectively. A copy of their instructions is herewith inclosed.

By these instructions you will observe that the evacuation of Cuba, Porto Rico, and other Spanish islands in the West Indies is treated as a military operation, and will, when carried into effect, leave the evacuated places in the military occupation of the United States. The purposes of the United States during such occupation are set forth in General Orders, No. 101, of the War Department, of July 18, 1898, which was issued by direction of the President on capitulation of the Spanish forces at Santiago de Cuba and in the eastern part of the prov-

ince of Santiago, and the occupation of the territory by the forces of the United States. A copy of this order is hereto annexed for your information.

As the evacuation of Cuba and the other Spanish islands in the West Indies by the Spanish military forces devolves upon the United States the duty of taking possession of and holding and preserving all the immovable property therein previously belonging to the Government of Spain, the evacuation commissioners of the United States are instructed to arrange for the taking into possession and to take into possession for the United States all public buildings and grounds, forts, fortifications, arsenals, depots, docks, wharves, piers, and other fixed property previously belonging to Spain, and to arrange for the care and safe-keeping of such property under the authority and control of the United States. Small arms and accoutrements, batteries and field artillery, supply and baggage wagons, ambulances, and other impedimenta of the Spanish army in Cuba and other Spanish islands in the West Indies are to be removed, if desired, by the representatives of Spain, provided such removal shall be effected within a reasonable time; but the armament of forts, fortifications, and fixed batteries, being in the nature of immovable fixtures, are not to be allowed to be taken, but are, in connection with such forts, fortifications, and batteries, to be taken over into the possession of the United States. The instructions of the evacuation commissioners also contain appropriate clauses in regard to the custody and preservation by the United States of state papers, public records, and other papers and documents necessary or convenient for the government of the islands, as well as all judicial and legal documents and other public records necessary or convenient for securing to individuals the title to property.

It will be proper to confirm these transactions by appropriate clauses in the treaty of peace.

Similar clauses will be inserted in respect to the islands ceded to the United States in the Ladrones. This Government has selected the island of Guam, and you are instructed to embody in the treaty of peace a proper stipulation of cession.

A rumor has reached us from various quarters to the effect that the Spanish peace commissioners will be instructed to claim compensation for the public property of the Spanish Government in Cuba as well as in territories agreed to be ceded to the United States. This rumor is not credited, but it is proper to make a few observations upon it. No such claim on the part of the Spanish Government is to be entertained in respect to any territory which Spain either cedes to the United States, or as to which she relinquishes her sovereignty and title. The cession of territory or the relinquishment of sovereignty over and title to it is universally understood to carry with it the public property of the government by which the cession or relinquishment is made. Any claim therefore on the part of Spain, such as that above suggested, would be inconsistent with the express agreements embodied in the protocol.

In the correspondence leading up to the signature of that instrument you will observe that this Government waived for the time being the requirement of a pecuniary indemnity from Spain. This concession was made in the hope that Spain would thereby be enabled promptly to accept our terms. But if the Spanish commissioners should, contrary to our just expectations, put forward and insist upon

a claim for compensation for public property, you are instructed to put forward as a counterclaim a demand for an indemnity for the cost of the war.

By article 6 of the protocol it was agreed that hostilities between the two countries should be suspended, and that notice to that effect should be given as soon as possible by each Government to the commanders of its military and naval forces. Such notice was given by the Government of the United States immediately after the signature of the protocol, the forms of the necessary orders having previously been prepared. But before notice could reach the commanders of the military and naval forces of the United States in the Philippines they captured and took possession by conquest of the city of Manila and its suburbs, which are therefore held by the United States by conquest as well as by virtue of the protocol.

In view of what has taken place it is necessary now to determine what shall be our future relations to the Philippines. Before giving you specific instructions on this subject it is my desire to present certain general considerations.

It is my wish that throughout the negotiations intrusted to the commission the purpose and spirit with which the United States accepted the unwelcome necessity of war should be kept constantly in view. We took up arms only in obedience to the dictates of humanity and in the fulfillment of high public and moral obligations. We had no design of aggrandizement and no ambition of conquest. Through the long course of repeated representations which preceded and aimed to avert the struggle and in the final arbitrament of force this country was impelled solely by the purpose of relieving grievous wrongs and removing long-existing conditions which disturbed its tranquillity, which shocked the moral sense of mankind, and which could no longer be endured.

It is my earnest wish that the United States in making peace should follow the same high rule of conduct which guided it in facing war. It should be as scrupulous and magnanimous in the concluding settlement as it was just and humane in its original action. The luster and the moral strength attaching to a cause which can be confidently rested upon the considerate judgment of the world should not under any illusion of the hour be dimmed by ulterior designs which might tempt us into excessive demands or into an adventurous departure on untried paths. It is believed that the true glory and the enduring interests of country will most surely be served if an unselfish duty conscientiously accepted and a signal triumph honorably achieved shall be crowned by such an example of moderation, restraint, and reason in victory as best comports with the traditions and character of our enlightened Republic.

Our aim in the adjustment of peace should be directed to lasting results and to the achievement of the common good under the demands of civilization rather than to ambitious designs. The terms of the protocol were framed upon this consideration. The abandonment of the Western Hemisphere by Spain was an imperative necessity. In presenting that requirement we only fulfilled a duty universally acknowledged. It involves no ungenerous reference to our recent foe, but simply a recognition of the plain teachings of history, to say that it was not compatible with the assurance of permanent peace on and near our own territory that the Spanish flag should remain on this

side of the sea. This lesson of events and of reason left no alternative as to Cuba, Porto Rico, and the other islands belonging to Spain in this hemisphere.

The Philippines stand upon a different basis. It is none the less true, however, that, without any original thought of complete or even partial acquisition, the presence and success of our arms at Manila imposes upon us obligations which we can not disregard. The march of events rules and overrules human action. Avowing unreservedly the purpose which has animated all our effort, and still solicitous to adhere to it, we can not be unmindful that without any desire or design on our part the war has brought us new duties and responsibilities which we must meet and discharge as becomes a great nation on whose growth and career from the beginning the Ruler of Nations has plainly written the high command and pledge of civilization.

Incidental to our tenure in the Philippines is the commercial opportunity to which American statesmanship can not be indifferent. It is just to use every legitimate means for the enlargement of American trade; but we seek no advantages in the Orient which are not common to all. Asking only the open door for ourselves, we are ready to accord the open door to others. The commercial opportunity which is naturally and inevitably associated with this new opening depends less on large territorial possessions than upon an adequate commercial basis and upon broad and equal priviledges.

It is believed that in the practical application of these guiding principles the present interests of our country and the proper measure of its duty, its welfare in the future, and the consideration of its exemption from unknown perils will be found in full accord with the just, moral, and humane purpose which was invoked as our justification in accepting the war.

In view of what has been stated, the United States can not accept less than the cession in full right and sovereignty of the island of Luzon. It is desirable, however, that the United States shall acquire the right of entry for vessels and merchandise belonging to citizens of the United States into such ports of the Philippines as are not ceded to the United States upon terms of equal favor with Spanish ships and merchandise, both in relation to port and customs charges and rates of trade and commerce, together with other rights of protection and trade accorded to citizens of one country within the territory of another. You are therefore instructed to demand such concession, agreeing on your part that Spain shall have similar rights as to her subjects and vessels in the ports of any territory in the Philippines ceded to the United States.

We are informed that numerous persons are now held as prisoners by the Spanish Government for political acts performed in Cuba, Porto Rico, or other Spanish islands in the West Indies, as well as in the Philippines. You are instructed to demand the release of these prisoners so far as their acts have connection with matters involved in the settlement between the United States and Spain.

It will be desirable to insert in any treaty of peace which you may conclude a stipulation for the revival of the provisions of our former treaties with Spain, so far as they may be applicable to present conditions.

I have directed Gen. Wesley Merritt, the late commander at Manila, to report to the Commission at Paris, where he will arrive October 2,

with such information as he may possess, and it is understood he will carry with him, for the use of the Commission, the views of Admiral Dewey. To the views of these distinguished officers I invite the most careful consideration of the Commission.

It is desired that your negotiations shall be conducted with all possible expedition in order that the treaty of peace, if you should succeed in making one, may be submitted to the Senate early in the ensuing session. Should you at any time in the course of your negotiations desire further instructions, you will ask for them without delay.

WILLIAM MCKINLEY.

EXECUTIVE MANSION,

Washington, September 16, 1898.

AUGUST 27, 1898.

Rear-Admiral WINFIELD SCOTT SCHLEY, U. S. N..

*Commissioner on the Part of the United States to
Superintend the Evacuation of Porto Rico.*

SIR: I inclose herewith, for your information, copies of two letters of instruction issued by the President, on the 26th instant, to the commissioners on the part of the United States to superintend the evacuation of Porto Rico.

Respectfully yours,

J. B. MOORE,
Acting Secretary.

[Enclosure.]

To Major-General BROOKE, Rear-Admiral SCHLEY, Brigadier-General GORDON,
*Commissioners on the Part of the United States to
Superintend the Evacuation of Porto Rico:*

By a protocol signed at Washington August 12, 1898, a copy of which is hereto annexed, the Governments of the United States and Spain agreed upon and defined the conditions on which they would enter upon negotiations for the establishment of peace between the two countries.

Among the conditions thus agreed upon is the following:

"Spain will cede to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies."

In order to give this stipulation effect it is agreed by Article IV of the protocol that Spain will, among other things, "immediately evacuate * * * Porto Rico and other islands now under Spanish sovereignty in the West Indies;" and to this end each Government engages within ten days after the signing of the protocol, to appoint commissioners, who shall, within thirty days after the signing of the protocol, meet at San Juan, in Porto Rico, "for the purpose of arranging and carrying out the details of the aforesaid evacuation of Porto Rico and other islands now under Spanish sovereignty in the West Indies."

The President has appointed you commissioners on the part of the United States to meet commissioners on the part of Spain at San Juan, for the purpose of arranging and carrying out the details of the immediate evacuation of Porto Rico and other islands now under Spanish sovereignty in the West Indies, excluding Cuba and the adjacent Spanish islands, for the evacuation of which other commissioners have been appointed.

You are therefore directed to proceed to San Juan at as early a day as practicable, in order that you may meet the commissioners on the part of Spain at the place and within the time designated.

Your functions relate solely to "the evacuation" of Porto Rico and other islands now under Spanish sovereignty in the West Indies, with the exception above stated. The evacuation referred to is a military operation, and will, when carried into effect, leave the evacuated places in the military occupation, of the United States. Any questions not properly connected with this operation, such as may be involved in the

formal relinquishment of sovereignty and title or cession of territory by Spain, are not within your powers, but must remain to be dealt with by the commissioners who are to meet at Paris under Article V of the protocol, for the purpose of negotiating and concluding a treaty of peace.

The purposes and policy of this Government during the period of military occupation will not form a subject of negotiation between yourselves and the Spanish commissioners, but they are set forth in General Order No. 101 of the War Department of July 18, 1898, which was issued by direction of the President on the capitulation of the Spanish forces at Santiago de Cuba and in the eastern part of the province of Santiago and the occupation of the territory by the forces of the United States. A copy of this order is hereto annexed for your information and guidance.

Your duties embrace both the arranging and the carrying out of the details of the evacuation. It will therefore be your duty to supervise the execution of the details of the evacuation as well as to agree upon them.

By the terms of the protocol Porto Rico is to be ceded by Spain to the United States. As such cession of the island will necessarily carry with it all the immovable property therein heretofore belonging to the Government of Spain, you will therefore arrange for and take into possession for the United States all public buildings and grounds, forts, fortifications, arsenals, depots, docks, wharves, piers, and other fixed property heretofore belonging to Spain, and will arrange for the care and safe-keeping of the same as the property of the United States.

The small arms and accoutrements, batteries of field artillery, supply and baggage wagons, ambulances, and other impedimenta of the Spanish army in Porto Rico you will permit to be removed, if desired, by the representatives of Spain, provided such removal shall be effected within a reasonable time. The armament of forts, fortifications, and fixed batteries, being in the nature of immovable fixtures, will not be permitted to be taken, but will, in connection with said forts, fortifications, and batteries, be taken over by you into the possession of the United States.

It will be your duty to see that all state papers, public records, and other papers and documents necessary or convenient for the government of the island, and records pertaining specially to the history of the island, be taken into your custody and preserved as the property of the United States. You will also provide that all judicial and legal documents and other public records necessary or convenient for securing to individuals the titles to property shall also be saved and preserved.

In taking over public property into the possession of the United States, you will have brief descriptions and full inventories made, and transmit the same to the Secretary of War, duly verified.

You are authorized to allow such persons as may so desire, to depart from the islands in a peaceful and regular manner with their personal possessions.

It will be your duty to confer with the general commanding the military forces in Porto Rico, from time to time, with reference to the details of the evacuation, and to arrange through the commanding general that the United States shall be prepared to take possession of each city, town, place, or port, with a suitable garrison as fast as the Spanish forces evacuate the same.

In like manner you will arrange, in connection with the commanding-general, to take charge of the custom-houses and other public buildings as the same are severally delivered over to the representatives of the United States.

If in the course of your proceedings you desire further instructions on any particular questions that may arise, you will submit without delay your request for such instructions.

It is desired that your duties as commissioners shall be performed with all possible expedition.

Wm. McKinley.

EXECUTIVE MANSION, August 26, 1898.

By the President:

[GREAT SEAL OF UNITED STATES.]

J. B. MOORE,
Acting Secretary of State.

[Confidential.]

To Major-General BROOKE, Rear-Admiral SCHLEY, Brigadier-General GORDON,
Commissioners on the part of the United States
to superintend the evacuation of Porto Rico:

In addition to the matters contained in your formal instructions herewith submitted, your attention is hereby called to certain other matters relating not so much to the immediate evacuation by Spain of the islands as to the future control and gov-

ernment of the same by the United States, to which it is desired that you will pay such attention as opportunity may afford.

You will bear in mind that Porto Rico and the other islands mentioned, except Cuba, are to become territory of the United States. Therefore all things done by you in the discharge of your commission should be done with a view to the future welfare of the islands and the improvement of the state and condition of their people as dependencies of the United States.

So far as it may come within the scope of your duties endeavor to arrange those matters within your jurisdiction so as to facilitate the speedy reestablishment of trade, commerce, business, and other peaceful pursuits of the inhabitants.

You will need to become informed as to the police arrangements of each city and town and to be prepared to advise and assist the general in command of the island in the adoption and application of means to continue good order and the administration of the local laws and ordinances after the departure of the Spanish forces.

Where it can be done prudently, confer with the leading citizens of Porto Rico in an unofficial manner and endeavor to ascertain their sentiments of loyalty to the United States and their views as to such measures as they may deem necessary or important for the future welfare and good government of the island.

In carrying out the details of the evacuation you will, so far as applicable and as will not conflict with your personal instructions, observe the principles contained in the instruction for government of armies of the United States in the field (G. O., 100).

WILLIAM MCKINLEY.

EXECUTIVE MANSION,

Washington, August 26, 1898.

By the President:

[GREAT SEAL OF UNITED STATES.]

J. B. MOORE,
Acting Secretary of State.

GENERAL ORDERS, }
No. 101. }

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, July 18, 1898.

The following, received from the President of the United States, is published for the information and guidance of all concerned:

EXECUTIVE MANSION,
Washington, July 13, 1898.

To the SECRETARY OF WAR.

SIR: The capitulation of the Spanish forces in Santiago de Cuba and in the eastern part of the province of Santiago, and the occupation of the territory by the forces of the United States, render it necessary to instruct the military commander of the United States as to the conduct which he is to observe during the military occupation.

The first effect of the military occupation of the enemy's territory is the severance of the former political relations of the inhabitants and the establishment of a new political power. Under this changed condition of things the inhabitants, so long as they perform their duties, are entitled to security in their persons and property and in all their private rights and relations. It is my desire that the inhabitants of Cuba should be acquainted with the purpose of the United States to discharge to the fullest extent its obligations in this regard. It will therefore be the duty of the commander of the army of occupation to announce and proclaim in the most public manner that we come not to make war upon the inhabitants of Cuba, nor upon any party or faction among them, but to protect them in their homes, in their employments, and in their personal and religious rights. All persons who, either by active aid or by honest submission, cooperate with the United States in its efforts to give effect to this beneficent purpose will receive the reward of its support and protection. Our occupation should be as free from severity as possible.

Though the powers of the military occupant are absolute and supreme and immediately operate upon the political condition of the inhabitants, the municipal laws of the conquered territory, such as affect private rights of person and property and provide for the punishment of crime, are considered as continuing in force, so far as they are compatible with the new order of things, until they are suspended or superseded by the occupying belligerent, and in practice they are not usually abrogated, but are allowed to remain in force and to be administered by the ordinary tribunals, substantially as they were before the occupation. This enlightened

practice is, so far as possible, to be adhered to on the present occasion. The judges and the other officials connected with the administration of justice may, if they accept the supremacy of the United States, continue to administer the ordinary law of the land, as between man and man, under the supervision of the American commander in chief. The native constabulary will, so far as may be practicable, be preserved. The freedom of the people to pursue their accustomed occupations will be abridged only when it may be necessary to do so.

While the rule of conduct of the American commander in chief will be such as has just been defined, it will be his duty to adopt measures of a different kind, if, unfortunately, the course of the people should render such measures indispensable to the maintenance of law and order. He will then possess the power to replace or expel the native officials in part or altogether, to substitute new courts of his own constitution for those that now exist, or to create such new or supplementary tribunals as may be necessary. In the exercise of these high powers the commander must be guided by his judgment and his experience and a high sense of justice.

One of the most important and most practical problems with which it will be necessary to deal is that of the treatment of property and the collection and administration of the revenues. It is conceded that all public funds and securities belonging to the government of the country in its own right, and all arms and supplies and other movable property of such government, may be seized by the military occupant and converted to his own use. The real property of the state he may hold and administer, at the same time enjoying the revenues thereof, but he is not to destroy it save in the case of military necessity. All public means of transportation, such as telegraph lines, cables, railways and boats belonging to the state may be appropriated to his use, but unless in case of military necessity they are not to be destroyed. All churches and buildings devoted to religious worship and to the arts and sciences, all schoolhouses, are, so far as possible, to be protected, and all destruction or intentional defacement of such places, of historical monuments or archives, or of works of science or art, is prohibited, save when required by urgent military necessity.

Private property, whether belonging to individuals or corporations, is to be respected, and can be confiscated only for cause. Means of transportation, such as telegraph lines and cables, railways and boats, may, although they belong to private individuals or corporations, be seized by the military occupant, but unless destroyed under military necessity are not to be retained.

While it is held to be the right of the conqueror to levy contributions upon the enemy in their seaports, towns, or provinces which may be in his military possession by conquest, and to apply the proceeds to defray the expenses of the war, this right is to be exercised within such limitations that it may not savor of confiscation. As the result of military occupation the taxes and duties payable by the inhabitants to the former government become payable to the military occupant, unless he sees fit to substitute for them other rates or modes of contribution to the expenses of the government. The moneys so collected are to be used for the purpose of paying the expenses of government under the military occupation, such as the salaries of the judges and the police, and for the payment of the expenses of the army.

Private property taken for the use of the army is to be paid for when possible in cash at a fair valuation, and when payment in cash is not possible, receipts are to be given.

All ports and places in Cuba which may be in the actual possession of our land and naval forces will be opened to the commerce of all neutral nations, as well as our own, in articles not contraband of war, upon payment of the prescribed rates of duty which may be in force at the time of the importation.

WILLIAM MCKINLEY.

By order of the Secretary of War:

H. C. CORBIN, *Adjutant-General.*

WASHINGTON, August 27, 1898.

Rear-Admiral WILLIAM T. SAMPSON, U. S. N.,
*Commissioner on the Part of the United States
to Superintend the Evacuation of Cuba.*

SIR: I inclose herewith for your information copies of two letters of instruction issued by the President on the 26th instant to the commis-

sioners on the part of the United States to superintend the evacuation of Cuba.

Respectfully yours,

J. B. MOORE,
Acting Secretary.

[Enclosure.]

To Major-General WADE, Rear-Admiral SAMPSON, Major-General BUTLER,
Commissioners on the Part of the United States to Superintend the Evacuation of Cuba:

By a protocol signed at Washington August 12, 1898, a copy of which is hereto annexed, the Governments of the United States and Spain agreed upon and defined the conditions on which they would enter upon negotiations for the establishment of peace between the two countries.

Among the conditions agreed upon is the following:

"Spain will relinquish all claim of sovereignty over and title to Cuba."

In order to give effect to this and other stipulations of the protocol, it is agreed by Article IV that Spain will, among other things, immediately evacuate Cuba, Porto Rico, and other islands now under Spanish sovereignty in the West Indies; and to this end each Government agrees, within ten days after the signing of the protocol, to appoint commissioners, who shall, within thirty days after the signing of the protocol, meet at Habana, "for the purpose of arranging and carrying out the details of the aforesaid evacuation of Cuba and the adjacent Spanish islands," while other commissioners are to meet at San Juan, Porto Rico, for the purpose of arranging and carrying out the details of the "evacuation of Porto Rico and other islands now under Spanish sovereignty in the West Indies."

The President has appointed you commissioners on the part of the United States to meet commissioners on the part of Spain at Habana, for the purpose of arranging and carrying out the details of the immediate evacuation of Cuba and the adjacent Spanish islands.

You are therefore directed to proceed to Habana at as early a day as practicable, in order that you may meet the commissioners on the part of Spain at the place and within the time designated.

The evacuation referred to is a military operation and will when carried into effect leave the evacuated places in the military occupation of the United States.

The purposes and policy of this Government during the period of military occupation will not form the subject of negotiations between yourselves and the Spanish commissioners; but they are set forth in General Orders No. 101 of the War Department of July 18, 1898, which was issued by direction of the President on the capitulation of the Spanish forces at Santiago de Cuba and in the eastern part of the Province of Santiago and the occupation of the territory by the forces of the United States. A copy of this order is hereto annexed for your information and guidance.

Your duties embrace both the arranging and carrying out of the details of the evacuation. It will therefore be your duty to supervise the execution of the details of the evacuation as well as to agree upon them.

The evacuation of Cuba and the adjacent Spanish islands by the Spanish military forces will devolve upon the United States the duty of taking possession, holding, and preserving all the immovable property therein heretofore belonging to the Government of Spain. You will therefore arrange for and take into possession for the United States all public buildings and grounds, forts, fortifications, arsenals, depots, docks, wharves, piers, and other fixed property heretofore belonging to Spain, and will arrange for the care and safe-keeping of the same under the authority and control of the United States.

The small arms and accouterments, batteries of field artillery, supply and baggage wagons, ambulances, and other impedimenta of the Spanish army in Cuba and the adjacent Spanish islands you will permit to be removed, if desired, by the representatives of Spain, provided such removal shall be effected within a reasonable time. The armament of forts, fortifications, and fixed batteries, being in the nature of immovable fixtures, will not be permitted to be taken, but will, in connection with said forts, fortifications, and batteries, be taken over by you into the possession of the United States.

It will be your duty to see that all state papers, public records, and other papers and documents necessary or convenient for the government of the islands and records pertaining specially to their history be taken into your custody and preserved

for the future use of such government as may be established therein. You will also provide that all judicial and legal documents and other public records necessary or convenient for securing to individuals the titles to property shall also be saved and preserved.

In taking over public property into the possession of the United States you will have brief descriptions and full inventories made and transmit the same to the Secretary of War, duly verified.

You are authorized to allow such persons as may (so) desire to depart from the islands in a peaceful and regular manner with their personal possessions.

It will be your duty to confer with the general commanding the military forces in Cuba and the adjacent Spanish islands from time to time, with reference to the details of the evacuation, and to arrange through the commanding general that the United States shall be prepared to take possession of each city, town, place, or port with a suitable garrison as fast as the Spanish forces evacuate the same.

In like manner you will arrange in connection with the commanding general to take charge of the custom-houses and other public buildings as the same are severally delivered over to the representatives of the United States.

If in the course of your proceedings you desire further instructions on any particular questions that may arise, you will submit without delay your request for such instructions.

It is desired that your duties as commissioners shall be performed with all possible expedition.

WILLIAM MCKINLEY.

EXECUTIVE MANSION, Washington, August 26, 1898.

By the President:

[GREAT SEAL OF UNITED STATES.]

J. B. MOORE,
Acting Secretary of State.

[Confidential.]

To Major-General WADDE, Rear-Admiral SAMPSON, Major-General BUTLER,
Commissioners on the Part of the United States to Superintend the Evacuation of Cuba:

In addition to the matters contained in your formal instructions herewith submitted, your attention is hereby called to certain other matters relating not so much to the immediate evacuation by Spain of the islands in question as to their future control and government by the United States, to which it is desired that you will pay such attention as opportunity may afford.

So far as it may come within the scope of your duties you will endeavor to arrange those matters within your jurisdiction so as to facilitate the speedy reestablishment of trade, commerce, business, and other peaceful pursuits of the inhabitants.

You will need to become informed as to the police arrangements of each city and town and to be prepared to advise and assist the general in command of the islands in question in the adoption and application of means to continue good order and the administration of the local laws and ordinances after the departure of the Spanish forces.

Where it can be done prudently, confer with the leading citizens of Cuba and the adjacent Spanish islands in an unofficial manner and endeavor to ascertain their sentiments toward the United States, and their views as to such measures as they may deem necessary or important for the future welfare and good government of the islands.

In carrying out the details of the evacuation you will, so far as applicable and as will not conflict with your personal instructions, observe the principles contained in the Instruction for Government of Armies of the United States in the Field (G. O., 100).

WILLIAM MCKINLEY.

EXECUTIVE MANSION,
Washington, August 26, 1898.

By the President:

J. B. MOORE, *Acting Secretary of State.*
[SEAL.]

Mr. Day to the President.

[Telegram.]

PARIS, September 28, 1898.

Commission send greetings. All well and preparing for meeting on Saturday. Spanish commissioners are here. Minister of foreign affairs entertains our body, also Spanish commissioners, on Thursday morning at breakfast. Are advised that General Merritt will arrive on Sunday at London. General Bates advises us that he is ordered to report here Monday next. It is sense of commission that, in view of the arrival of General Merritt, Secretary of War had better order General Bates not to come here until requested by commission.

DAY.

The President to Mr. Day.

[Telegram.]

WASHINGTON, September 29, 1898.

Present my congratulations to the commissioners upon their safe arrival in good health, and the auspicious beginning of their important work.

WILLIAM MCKINLEY.

The President to Mr. Day.

[Telegram.]

WASHINGTON, September 28, 1898.

The order will be issued. General Greene has just arrived and had long talk with him. He is thoroughly well informed. If you care to have him, will direct him to report to you.

WILLIAM MCKINLEY.

Mr. Day to the President.

[Telegram.]

PARIS, September 28, 1898.

Commission presented to minister for foreign affairs yesterday. Will communicate as to General Greene after we have seen General Merritt, unless you wish to send him at once.

DAY.

The President to Mr. Day.

[Telegram.]

WASHINGTON, September 28, 1898.

Will await request of commission before sending General Greene. Merritt will have note from Dewey.

WILLIAM MCKINLEY.

Mr. Day to the President.

[Telegram.]

PARIS, September 30, 1898.

Minister for foreign affairs gave joint entertainment yesterday to the two commissions; passed off very agreeably. Meet for business to-morrow. Commissioners will be presented to the President of France on Tuesday. Can you send word of greeting to him to be delivered at our presentation?

DAY.

The President to Mr. Day.

[Telegram.]

WASHINGTON, September 30, 1898.

Answering your telegram of to-day, I request you to deliver to President of the Republic, on the occasion of your presentation, the following message in my name:

His Excellency FELIX FAURE,

President of the French Republic, Paris:

On this occasion, when the commissioners of the United States and Spain are about to assemble in the capital of France to negotiate peace, and when the representatives of this Government are receiving the hospitality and good will of the Republic, I beg to tender to you a most friendly personal greeting and the assurances of my grateful appreciation of your kind courtesies to the American commissioners.

WILLIAM MCKINLEY,
President of the United States.

Mr. Day to the President.

[Telegram.]

PARIS, October 1, 1898.

At our first meeting to-day the Spanish Commissioners by instruction of their Government presented as preliminary to any discussion of a treaty a written communication basing on Article VI of the protocol a demand that the American commission join them in declaring that the status quo in the Philippine Islands existing at the time of the signing of the protocol must be immediately restored by the contracting party that may have altered it or have consented or failed to prevent its alteration to the prejudice of the other. Spanish communication represents that status quo has been altered and continues to be altered to prejudice of Spain by Tagalo rebels, whom it describes as an auxiliary force to the regular American troops, and demands that commissioners jointly declare that American authorities in Philippine Islands must at once proceed completely to restore status quo in territories they occupy and refrain from preventing restoration thereof by Spain in territory not occupied by United States. Spanish commissioners ask for an answer on Monday next. We propose to reply that these demands having been presented to the Government of the United States were answered by notes of the Department of State to French embassy of September 5 and 16, and that any further demands as to

military operations in the Philippine Islands must be addressed to Government at Washington and consequently that we can not join in the proposed declarations. We await instructions.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

To SECRETARY OF STATE:

Our answer submitted to Spanish commissioners declining to join in declarations as to restoration status quo in Philippine Islands on grounds stated in our telegram October 1st well received by them. We then submitted articles of the treaty covering Cuba, Porto Rico, and other islands in West Indies and Guam, as provided in protocol. They asked until Friday to consider them. Adjourned to Friday afternoon. Hear Merritt to-morrow.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 2.]

PARIS, October 4, 1898—12.51 p. m.

The opinions of Admiral Dewey, in the possession of the Commission, seem to favor retention of Luzon alone, but appear to have been given in answer to question as to which island in Philippine Islands the United States should retain. If this assumption is correct, will you, if it is deemed advisable, as certain by telegraph through proper channel, and telegraph us whether Admiral has formed an opinion, and if so what (it) is on the question whether it would be better for United States to retain Luzon, and perhaps one or two small adjacent islands, or the whole group.

DAY.

The President of France to the President.

[Telegram.]

PARIS, October 4, 1898.

I have had great pleasure in receiving the American Plenipotentiaries of the Spanish-American Peace Commission. During the audience Mr. Day read me the telegram which you had the kindness to send me. I am much touched at the sentiment which Your Excellency has had the goodness to express in respect to me, and I thank you very much. I hope that the American Commissioners will have a pleasant memory of their stay in Paris, and I will do my best to make it agreeable. I sincerely trust that the peaceful work of the commission will come to a happy conclusion.

FELIX FAURE.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 5, 1898.

(Sent 12.45 p. m.)

The President on the 13th August requested Dewey's opinion on relative desirableness of the several islands, to which he made brief reply by cable which you have seen. Later the President asked him to communicate to Merritt his views on general question of Philippines. His report in your hands is in response to both questions.

HAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 6, 1898.
(Sent 4 p. m.)

The following telegram has been received here from the chairman of the American commissioners in Cuba:

HAVANA, October 5, 1898.

Joint session of commissions developed irreconcilable differences, Spanish commission under instructions from their Government holding, first, that Spanish sovereignty will remain paramount in Cuba until Spain, in treaty about being negotiated in Paris, has relinquished the same and treaty has been concluded, ratified, and proclaimed.

Second. When Spain has relinquished sovereignty in the manner just stated, then so much of fourth article as provides for immediate evacuation becomes effective; that this evacuation is solely a military operation.

Third. That dates originally given by them under which evacuation is to be completed, April 1, next year, are by them adhered to.

Fourth. That rule of capture does not apply to territory now occupied by Spanish troops; that they are therefore permitted to take with them not only all movable property, but also all guns and their mountings from fortifications, and fixed batteries as well as machinery from navy-yards and arsenals—in fact, everything of material of war which can be moved. We have dissented from all of these propositions, holding, first, that under terms of protocol relinquishment of sovereignty is a condition precedent to negotiations for peace at Paris.

Second. That, under protocol, article fourth became effective on its date, August 12; that the term "to evacuate" is not restricted in its meaning as used in the protocol to a military evacuation, and that to immediately evacuate means to at once abandon possession of by withdrawing from the country not only the military but also the Government authority of Spain.

Third. That we insist upon December 1, next, as date for concluding evacuation by Spanish troops.

Fourth. That under Spanish law all movable things constructed or destined for the permanent use or service of immovable property become immovable property; that fortifications and fixed batteries are immovable property; that, therefore, guns and their mountings and other things intended for permanent use or service of such fortifications are necessarily fixtures, and hence immovable property, and likewise machinery and other like fixtures in navy-yard or arsenal.

Spanish commission all made point that surrender of sovereignty at various points at various times would cause confusion in matter of tariff and in collecting internal (?) and other duties.

We replied we had considered that subject and were prepared to assume responsibility for proper collections when our troops occupy island.

Spanish commission has appealed to Madrid for instructions upon points stated. We submit foregoing differences for your action and further instructions. Spanish

commission have heretofore assured us that within period by them stated they will proceed as rapidly with the embarkation of their troops as circumstances and facilities will permit, and they stated to-day that up to this time they are promised 27 ships, most of them on the way.

WADE, *Chairman.*

To this the President made the following reply:

WADE, *Habana:*

Your message of October 5 giving the differences between the Spanish commissioners and yourselves is received. Their claims are wholly inadmissible, and yours are in strict accordance with the protocol and the instructions heretofore given, and must be adhered to.

WILLIAM MCKINLEY.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 3.

PARIS, October 7, 1898.

(Received 7.26 a. m.)

General Merritt brings statements from General Greene, Surgeon Bourns, Major Bell, Admiral Dewey, Colonel Jewett, personal opinions of Belgian Consul André at Manila, and correspondence of our military officers with Aguinaldo. Needless to summarize the statement of Greene, who is in Washington. Bourns several years in the Philippine Islands, and opinion much relied on by Merritt. Thinks if a few ambitious insurgent chieftains could be disposed of, masses of natives could be managed by the United States. Considers natives incapable of self-government because of lack of good examples, lack of union in Luzon and throughout archipelago, and existence of race, tribal, and religious differences. Natives united against Spain. Strong feeling against monastic orders, but not against church itself. Natives in Luzon are Catholics and well disposed toward the Jesuits.

Islands as whole rich and productive; climate good as any in Tropics. Major Bell estimates insurgent forces upward 20,000. Aguinaldo the most popular leader, but maintains control with difficulty. Some of his leading men dishonest and many wealthy natives opposed to him. Natives of Manila generally opposed to insurrection. Petty chiefs get money by blackmail and booty. Aguinaldo and his leaders will resist any attempt to reorganize a colonial government, but want native republic under American or other protectorate except Spanish.

Admiral Dewey sends only copy of report sent to President by Greene.

Colonel Jewett thinks natives would submit to any just, firm government, but unfit for self-government. Insurrection did not aim at national independence. Spain can not in near future protect life and property in Luzon, nor could insurrectionary government sustain itself there. United States territorial form of government not practicable at present.

Belgian consul, according to Merritt—who gives much weight to his opinion—is intelligent man, wealthy, and largely interested in business, and discloses business man's point of view. Consul says United States must take all or nothing. If southern islands remained with Spain

they would be in constant revolt and United States would have a second Cuba. Spanish Government would not improve. Power and corruptions of office holders would continue. Spanish governors would still protect monks in their extortions. Insurrection began among lower classes, who make good soldiers. Since arrival of American forces certain members of native upper classes have joined rebels. Native character insincere. Upper classes include usurers, pawnbrokers, and keepers of gambling houses, who will not risk their capital in rebellion and who would be glad to have American protection against insurgent demands for money. Rich natives treat laborers inhumanly. Custom on plantations all over islands is to get workmen into debt and then hold them practically as slaves and even transfer them with estates. Spanish Government always tolerated and protected this system.

Enormous difference between even best educated natives and white men. Chinese natives join sordidness to craftiness, and are rapacious pawnbrokers. Spanish natives join presumption to duplicity. On (the) whole, natives inferior and unfitted to rule. Their only example the monks and Spaniards. United States should have pity on them (and) show them something better. Under United States islands would increase in wealth and soon return any money laid out. Even Spanish merchants desire American protection. Natives do not desire independence. Present rebellion represents only half of one per centum of inhabitants. Only 30,000 rebels. Luzon only partly held (by) them. The monks want to get away. Natives will resist Spaniards, but submit to United States.

General Anderson, in correspondence with Aguinaldo in June and July, seemed to treat him and his forces as allies and native authorities, but subsequently changed his tone. General Merritt reports that Admiral Dewey did not approve this correspondence and advised against it. Merritt and Dewey both kept clear of any compromising communications. Merritt expresses opinion we are in no way committed to any insurgent programme.

Answering questions of Judge Day, General Merritt said insurrection practically confined to Luzon. Tribal and religious differences between the inhabitants of various islands. United States has helped rather than injured insurrection. Under no obligation other than moral to help natives. Natives of Luzon would not accept Spanish rule, even with amnesty. Insurgents would be victorious unless Spaniards did better in future than in past. Insurgents would fight among themselves if they had no common enemy. Think it feasible for United States to take Luzon and perhaps some adjacent islands and hold them as England does her colonies. Natives could not resist 5,000 troops.

Revenues of Luzon, leaving out cock fighting, gambling licenses, and poll tax, would more than pay expenses of government. No burden of any kind on United States, and we would help the island. Chinese half-breeds the most enterprising element in the islands. Thinks we hold Manila by conquest, and that the protocol did not affect the capitulation. He considered that the surrender was virtually a surrender of the Philippine Islands. He thinks it practicable and unobjectionable to hold Luzon alone, where most of the rebellious feeling exists. He knows, however, little of conditions in other islands. It would require more to take and keep whole group than Luzon.

Horrible stories told of monastic orders which hold most of land in the island and oppress native tenants. Friars want United States to transport them to Hongkong. No religious tolerance in the islands. Hundreds, perhaps thousands, of priests in Luzon. The United States might have conflicts with the church, but not with the people.

Answering questions of Senator Davis, Merritt said several million dollars fell into American hands on capitulation of Manila. Spanish authorities extorted \$2,000,000 from bank in March and never repaid it. Probably spent this money or carried it away before the capitulation. Friars are mostly imported Spaniards. Native priests are popular, and probably in sympathy with insurgents. Filipinos treated prisoners well, but did not feed them well; this was unnecessary. The natives he has seen in Manila, capable of assisting the United States in governing, could be numbered on his fingers, but the number might increase. So far they had had no training.

The islands lying between Luzon and Mindanao dependent more or less strategically and commercially on Luzon. This (is) his understanding, but he did not give much attention to the subject and his opinion not valuable. Manila the distributing center. Had not given consideration to the place at which Spain would set up her power if we took Luzon. Spain might govern other-islands if she did not continue abuses. General Merritt thinks that if United States attempted to take possession of Luzon, or all the group as a colony, Aguinaldo and his immediate followers would resist it, but his forces are divided and his opposition would not amount to anything. If the islands were divided, filibustering expeditions might go from one island to another, thus exposing us to constant danger of conflict with Spain.

In answer to questions of Senator Frye, Merritt said insurgents would murder Spaniards and priests in Luzon and destroy their property if the United States withdrew. United States under moral obligation to stay there. He did not know whether the effect of setting up a government by the United States in Luzon would be to produce revolutions in other islands. It might cause reforms in their government. Some of the revolutionary leaders in Luzon might try to stir up rebellion in the other islands, but it would be difficult for them to fit out expeditions without our knowledge. There would be danger between the United States and Spain, as there is between Germany and France over Alsace-Lorraine—Spain would want to recover what she had lost. Would not say that the United States should take all or none. Thought United States could not abandon Luzon. It would simplify things if United States took whole group, but whether it is not a larger undertaking than we choose to have on our hands is a question in his mind, and if there was a way of compromising it by holding on to Luzon and such other contiguous islands as we desire, thinks it would be wise to do it. Would have no confidence in Spanish guarantees.

Answering questions of Mr. Gray, Merritt said consequences in case of either insurgent or Spanish triumph made it doubtful whether United States would be morally justified in withdrawing. Our acts were ordinary acts of war, as if we had attacked Barcelona, but present conditions in Philippine Islands were partly brought about by us. Insurgents not in worse condition by our coming. Spaniards hardly able to defend themselves. If we restored them to their position and

trenches, they might maintain themselves with the help of a navy when we withdrew. Did not know that he could make out a responsibility by argument, but he felt it. It might be sentimental. He thought it would be an advantage if the United States would change its policy and keep the islands. (He) thought our interests in the East would be helped by the cheap labor in the Philippines, costing only from 20 to 80 cents a day, according to skill. United States might hold Luzon alone, but it would require larger force to protect Luzon if other powers held other islands, though it would require a larger force to protect all the islands than to protect Luzon. Thought we could manage the religious question, but it would be unwise to let Protestant missionaries go there except as educators, and that not immediately.

Answering questions of Mr. Reid, Merritt said he considered capture of Manila practically capture of group. Nothing left of Spanish sovereignty that was not at mercy of the United States. Did not think our humanity bounded by geographical lines. After Dewey's victory we armed insurgents to some extent, but Dewey says it was overestimated. Insurgents bought arms from Hongkong merchants with Dewey's cognizance, but Dewey was not in favor of allowing this to continue. Spaniards would destroy Aguinaldo and his principal followers, if allowed to do so. Spanish guaranties worthless unless enforced by bayonet. To take Luzon alone would expose us to Spain's efforts to recover what she had lost. If disorders broke out in other islands either through Spanish misgovernment or through attempt to sell to other countries, the effect upon our possessions in Luzon would be disastrous.

Prosperity of Manila has arisen partly from its being the capital and entrepôt of the group. If we took Luzon alone and powerful European countries got other islands the trade would be deflected from Manila. A strong power holding Cebu or Iloilo would develop it at expense of Manila. Manila would become less valuable, but even in this case he thinks revenues would be sufficient to pay all expense of administration, including army and navy. Revenue of whole group would be more than adequate for government. Native forces might be used for military purposes if recruited about a nucleus of a regiment or two of our own troops. Natives glad to serve in army and could undoubtedly be depended on. A military government, following the English examples of utilizing natives as far as possible, would be best for the present.

Answering Judge Day, Merritt said he had no knowledge of how natives outside Luzon would act toward United States. Thinks Luzon would be self-sustaining, except in case of foreign interference, but even then would be self-supporting.

Answering Senator Gray, Merritt said he thought the natural advantages would cause commerce to flow through its accustomed channels. It would be better for the other islands and Luzon to be in the possession of a highly civilized power than to remain in their present condition. The capitulation of Manila on file in the War Department was made a part of General Merritt's statement.

Thursday, 10 a. m.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 4.]

PARIS, October 7, 1898. (Received 1.05 p. m.)

Telegram concerning difficulties of commissioners at Habana received. Our commissioners seem to have made mistake in discussing or answering any question as to Spain's relinquishment of sovereignty over and title to Cuba. Their duties relate solely to that practical military operation of immediate evacuation. It seems to us they should have said this, instead of accepting an issue as to the time when Spanish sovereignty will be relinquished. Not of vital importance when Spain formally relinquishes her sovereignty, or whether she ever formally relinquishes it, if we are in possession. This was specific purpose of article 4 of protocol.

We meet Spanish commissioners this afternoon and shall go forward with articles as to Cuba, Porto Rico, and Guam without mentioning questions before commissioners at Habana.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,

Washington, October 7, 1898.

Your No. 4 received and is satisfactory to the President. It was not to have you open the question which you have properly regarded as closed, but to have you assist if possible in the carrying out of the terms settled by the protocol, to wit: The immediate evacuation of Cuba, Porto Rico, and the other islands of the West Indies. The evacuation commissioners have not so far as we are advised discussed the relinquishment of title and sovereignty in Cuba and Porto Rico on part of Spain; that was settled by the protocol. They have discussed only the details of evacuation. Your proposal to go forward without mentioning questions before commissioners at Habana is approved by the President.

HAY.

The President to Mr. Day.

[Telegram.]

EXECUTIVE MANSION,
Washington, October 7, 1898.

There are still 3,500 Spanish troops in Porto Rico. No transports have been provided to carry them to Spain. Longer delay can not be permitted. Can you hasten transports? If troops can not be moved away on or before October 18, then, on that day, possession should be given to the American evacuation commission and notice should be so served. Whatever help the American peace commission can give in this direction should be given. The Cuban commissioners are evidently intent upon delay, and they have been notified that the evacuation must be completed by the 1st of December.

WILLIAM MCKINLEY.

Mr. Day to the President.

[Telegram.]

No. 5.]

Telegram received. In view of the answer made by us on Monday last [No. 1] with your approval to Spanish proposition as to status quo in Philippines, we think we are precluded from presenting to Spanish commissioners here any question properly belonging to two Governments or to the commissioners at Habana or San Juan. It would open to them a door which by our answer of Monday we hoped we had closed finally.

PARIS, October 7, 1898.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 6.]

PARIS, October 8, 1898—11.58 a. m.

Your reply to our telegram as to Habana commissioners received. As we read telegram of Wade to Adjutant-General it seems clear that our Cuban commissioners undertook to discuss question of relinquishment of title and sovereignty and advanced a proposition in relation thereto. We understood the protocol and their instructions to restrict them to the military operation of evacuation, which was to leave evacuated places in military occupation of United States. We understand that questions as to relinquishment of title and sovereignty are committed to us.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 8, 1898.

Your No. 6 received. The President does not understand that our commissioners in Cuba have undertaken such discussion as you mention. But as a measure of precaution he has instructed them not to admit or discuss question of relinquishment of title or sovereignty and to restrict themselves to the military operation of evacuation. You are right in understanding that questions of relinquishment of title and sovereignty are committed to you.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 7.]

PARIS, October 8, 1898.

Spanish commissioners yesterday presented counter propositions, consisting of seven articles and covering four long type-written pages as to Cuba and Porto Rico. Propose to transfer sovereignty over

Cuba to the United States, which is to accept it in order at proper time to turn it over to Cuban people on conditions established in the treaty. It is proposed to include in the transfer thus made charges and obligations of every kind which Spain and her authorities in Cuba may have lawfully contracted for the service of the island or which may be chargeable to the insular treasury, including all debts, salaries, civil and ecclesiastical, and pensions, civil and military, up to the ratification of the treaty. The cession of Porto Rico is to be final, but subject to like conditions. The articles also contain stipulations as to property, archives, and other subjects.

We took adjournment till Tuesday in order to examine Spanish proposals as well as to hear Foreman, who has come at our request incognito from London, 20th. At next conference intend to ask Spanish commissioners to explain their counter propositions orally, but unless otherwise instructed we expect to take position at once that the Spanish proposals as to so-called Cuban charges and obligations, as above described, are excluded from discussion by the unconditional relinquishment of sovereignty and title pledged in the protocol of the 12th August. We also expect to stand upon language of protocol as to such relinquishment.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 8, 1898.

Your No. 7 received. Your answer to Spanish proposals as therein set forth is approved by the President.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 8.]

PARIS, October 9, 1898.

American commissioners examined Foreman yesterday. Went to Philippine Islands in 1880, left finally 1896, three months after insurrection broke out. Lived there eleven years; engaged in business and exploration. Been over all principal islands and most of Spanish posts in Mindanao. Inhabitants vary, Tagalos of Luzon and Mindoro the most tractable and impressionable, easy, plastic, and extremely hospitable; the Visayas, inhabiting central islands—Panay, Negros, Cebu, Bojol, Leyte, Samar, and Masbate—more uncouth, less hospitable, and more averse to association with outsiders. Peculiar class in Panay of Chinese half-castes, who are traders and middlemen. Negros has few persons of importance; not favorite place of residence, but richest island for production of sugar; has no harbor, Iloilo on Panay being its entrepôt. The island of Palawan almost worthless.

The inhabitants of Sulu Archipelago and Mindanao are Mussulmans; have no distinctive name; have successfully resisted repeated efforts of Spain to subdue them; not hostile to other foreigners. Spaniards

hold in the island of Sulu, only town of Sulu, which is often raided, and in Mindanao only several posts on the coast. No one controls interior. Manila has 400,000 inhabitants, including 60,000 Chinese, 6,000 Spaniards, 250 English, 250 to 300 Germans, 300 British Indians, a sprinkling of other foreigners, 50,000 Spanish half-castes, and rest native Tagalos. Luzon has about 1,250,000 inhabitants. Whole group has about 5,000,000 natives, who have been subjected by Spaniards and are Catholics; about 1,000,000 other natives.

There are four orders of monks—Austins or Augustinos, Dominicans, Recoletos, Franciscan. The Jesuits, whose work is exclusively educational, are moral and popular.

The head of church is archbishop, but each order has a head called the provincial, who is practically independent. The secular clergy, who are natives, claim orders not entitled to hold the incumbencies through which they control land. It seems orders originally took possession, which was afterwards confirmed by royal decrees, but have no title deeds. There is a system of land registration in islands, very recent and little used. You present proofs and eventually get certificate of title from chief of the treasury. Monks understood not to have attempted registration. They rent land, usually for three years, then raise rent so as to capitalize tenant's labor. This caused opposition and a demand for production of title deeds. Monks hold about 3 per cent cultivated lands in Luzon. Perhaps not more than six estates in group held by foreigners. Three thousand acres large estate.

Friars mostly lead loose lives, get up societies called Cofradia of women, whom they make servants and have at beck and call. This is notorious and not concealed by monks; examples given. Priests can not appear in court, but words received as truth. Civil and military government merely servant of orders, who dictate appointment and deposition governors and control them even in matters of life and death. Had General Blanco removed because not blood-thirsty. Climate Philippine Islands good. No prevalent fevers as in Cuba. Light fevers, but no malaria. Best and most advanced island is Luzon. Most insurrections there because people most advanced. Insurrections caused by oppressions of monks, who have people sent from place to place for personal causes. Generally have them banished by governor-general to Mindanao. Judicial administration Philippine Islands wholly untrustworthy. Judges appointed from Spain. Persecution and corruption rife.

Important cause of native discontent is exaction [of] compulsory labor fifteen days each year. Labor commutable in money. False returns, number of laborers, and corresponding exactions of money. Another cause is civil guard, Spanish officers, native men. System good, but abused. Men steal and extort from natives. Officers compel natives [to] furnish supplies and persecute if refused. Another cause is poll tax for cedula [personal civil certificate], which every individual over eighteen years must pay for and carry.

Coal in Cebu merely lignite, requires mixing. Coal in Luzon better quality, but not safe to use alone. Natives unfit for self-government. Ideas too undeveloped. Would submit to just civilized government. Separation Luzon from rest group would now create scarcity labor outside Manila, but natives of other islands startled by freedom of Luzon would want (to) come there and Luzon would be cultivated and

make prosperous colony. Half of island not now cultivated and mostly virgin soil. Sugar shipped to Hongkong and Shanghai. Hemp chiefly to America. Luzon has best soil for tobacco, coffee, and all island products except cane sugar.

If Spaniards retain other islands it should be on the following conditions: Expulsion and exclusion of monastic orders, permission to natives to go and come freely, regulation of commerce by treaty, free trade between islands, and abolition of export duties. Problem of government not complicated by taking group, but special privileges necessary for the people Mindanao. Philippine Islands natives not troubled about religion. Native priests would not oppose the United States or resent coming of Protestant missionaries. Government pay them salaries probably averaging five hundred Mexican dollars yearly. Loss of this would not make trouble; mostly have means (of) their own. In Philippine Islands budget 1896, church got nearly \$7,600,000 in gold. Pensions and allowances to persons outside Manila, such as to descendants of Columbus. Maintenance consulates far East consumed nearly 600,000. Highways and public works nothing. Priests exact about 1,000,000 yearly for marriages, sale indulgences, etc, and indirectly a tax of about 24 cents on everyone in parish. The Government levies taxes from \$5 to \$250 on all business, runs lottery, licenses cock fighting, imposes stamp tax. Corrupt exaction in the settlement of estate. Cock fighting should be tolerated. Native life dull, amusement necessary. Spanish promises of reform would not be fulfilled. Would be interpreted broadly. Broke agreement with Aguinaldo.

If monks left, natives would claim land; orders would claim it collectively as corporation. Harbor in north of Luzon, called Apurri, 323 miles from Hongkong, could be made very good. Subig Bay, commercially objectionable because land about it is hilly and rises abruptly from sea, but this is an advantage for national defense. Mindoro Island thinly populated; its development always opposed by Spaniards. Fine hard wood there. To take Luzon and leave other islands to Spain unconditionally would tend to produce revolutions. To take Luzon, require free ingress and egress, create interisland free trade, and forbid Spain to alienate other islands, would be almost same as taking the whole and confer favor on Europe. To take all would square itself. Expenses would be greater, but income also. Enough soldiers to protect group could be recruited in islands. Exclusive of Mindanao, thinks alienation of other islands by Spain should be prevented to keep out Germany, the great trade rival of Great Britain to-day and of United States in next generation.

Sunday, 6 afternoon.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 9.]

PARIS, October 12, 1898.

Joint commission met yesterday. We presented paper rejecting Spanish articles as to Cuba and Porto Rico. Spanish commissioners then filed under the rules a memorandum giving reasons in support of their position on Cuban debt and now insist upon relinquishment and

transfer of sovereignty to United States which is to accept it without any express obligation to transfer it to the Cuban people. On Cuban debt we shall insist upon our original position. A majority favor adherence to words of Article I of protocol as to relinquishment of sovereignty over Cuba. Senator Gray in favor of accepting sovereignty unconditionally in view of our already expressed declaration of trust in regard to same, and that we may thereby avoid future complications with Cubans, claiming sovereignty while we are in process of pacifying island and restoring order in accordance with our own ideas. We desire instructions on this point. We shall, unless otherwise instructed, insist upon disposition of matters in first and second articles of the protocol before taking up Article III. We meet again on Friday.

Wednesday.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 13, 1898.

The President sees no reason for departing from instructions already given, but many reasons for adhering strictly to terms of protocol concerning Cuba. We must carry out the spirit and letter of the resolution of Congress. The commission will use its own best judgment as to pressing to definite conclusions.

Thursday, 3 afternoon.

HAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 14, 1898.

The Secretary of the Navy has just received the following telegram from Admiral Dewey, which is communicated for your information:

It is important that the disposition of the Philippine Islands should be decided as soon as possible, and a strong government established. Spanish authority has been completely destroyed in Luzon, and general anarchy prevails without the limits of the city and bay of Manila. Strongly probable that islands to the south will fall into same state soon. Distressing reports have been received of inhuman cruelty practiced on religious and civil authorities in other parts of these islands. The natives appear unable to govern.

DEWEY.
HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 10.]

PARIS, October 17, 1898.

Joint conference this afternoon. Spanish commissioners stated that (they) were ready to withdraw articles previously presented by them on Cuba and Porto Rico and substitute for them others more nearly in conformity with language of the protocol. The American commis-

sioners, availing themselves of this opportunity, immediately presented a paper previously prepared by them, in which they stated that, while accepting all responsibilities for the protection of persons and property which might legally and justly attach to the United States during the occupation of Cuba, they must again and finally decline to assume burden of the so-called Cuban debt either for the United States or Cuba, and offered to substitute for articles previously presented by them articles embodying precise language of the first and second articles of the protocol as to Cuba, Porto Rico, and Guam. Spanish commissioners desired opportunity to consider proposal, and conference adjourned till Wednesday afternoon.

Monday evening, 8.30.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 11.]

PARIS, October 17, 1898.

Spanish commissioners at conference to-day brought to our notice telegram from their Government, stating that it had information that *Iowa* and *Oregon* and reinforcement of troops are going to Manila; also that Tagalo rebels have in their possession a large number of Spanish prisoners, civil as well as military. The Spanish commissioners made no protest, but merely asked us to communicate reports to our Government and represent that such things tend to create a state of public feeling which might embarrass the negotiations.

We answered that, in absence of information or instructions on the subject which properly belonged to two Governments, we would communicate reports to our Government. We made this promise more readily in view of Admiral Dewey's telegram. We feel importance of preserving, so far as possible, condition of things existing at the time of signing protocol.

Spanish commissioners said their Government hoped Spanish prisoners referred to might be liberated or turned over to American authorities.

We venture to suggest that it might be advisable for our Government to do anything it properly can to prevent change of status quo in Philippine Islands, or development there of disorders which may seem to warrant active measures by Spain or other governments. Might not our Government, in reply to representations which it has received or probably will receive from Spanish Government, offer to take more active and positive measures than heretofore for preservation of order and protection of life and property in Philippine Islands?

Monday, 8.30, evening.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 12.]

PARIS, October 19, 1898.

The conference which was to have taken place to-day postponed till Friday on request of Spanish commissioners.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 19, 1898.

The following telegram has been received to-day by Secretary of War:

MANILA, October 19.

ADJUTANT-GENERAL, Washington:

Situation Luzon somewhat improved. Influence of Filipinos of education and property not desiring independent government, but hostile to Spain gaining ascendancy in revolutionary councils. Believe Spanish residents constantly plotting to inaugurate hostilities between our forces and insurgents. Freedom press permitted, but greatly abused. Many articles published entirely devoid of truth; have no effect here. Insurgent authority crude; information and application acknowledged by inhabitants in two-thirds Luzon, north. Aguinaldo moderately recognized. Will make endeavors to gain possession of Spanish priests; now treated better than formerly.

Do not anticipate trouble with insurgents; promise nothing but enforcement of law, and no encouragement given for American assistance or protection in southern islands. Spanish authority precarious, confined mostly to stations of Cebu; insurgents there not allied to those in Luzon; appear determined to resist Spanish rule, would welcome that of United States. These complications seriously affect interisland commerce and diminish revenue; receipts half million, Mexican, monthly. Affairs progressing favorably, though sick report increasing, owing mostly to carelessness enlisted men; health of officers good; condition of city and facilities for quartering troops improving. Fevers decreasing; intestinal troubles about same; many slight ailments; small-pox apparently arrested; during month 28 deaths—8 smallpox, 8 typhoid fever, 5 malarial and intestinal complaints, 3 accidental.

OTIS.
HAY.*Mr. Day to Mr. Hay.*

[Telegram.]

No. 13.]

PARIS, October 22, 1898.

At meeting yesterday Spanish commissioners rejected our articles, in which we tendered, in exact terms of protocol, relinquishment of sovereignty in Cuba and cession of Porto Rico and Guam. They submitted new articles, relinquishing sovereignty over and title to Cuba, making United States accept said relinquishment, and receiving Cuba to lend it aid and guidance, hold, and govern until pacification realized, then leave control and government to Cuban people. United States to assume all debt not peninsular but properly and peculiarly Cuban, character and amount to be determined by mixed commission to be provided for in treaty.

Other articles not materially different, except they declare cession Porto Rico and other West India Islands and Guam [to be] compensation for losses and expenses occasioned United States by the war and for claims of United States citizens by reason of injuries and damages suffered in person and property during the Cuban insurrection. Unless otherwise instructed we shall reject these articles and insist upon our articles in terms of protocol and press matters on these points to a conclusion. Our probable line of procedure, if you do not disapprove and if we think the emergency has arisen, will be to repeat that our position on Cuban debt is final and that if now again rejected nothing is left to us excepting to give notice of only one more meeting to close the protocol.

Saturday, 12.30, afternoon.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 14.]

PARIS, October 22, 1898.

In telegram this morning we stated intention to stand strictly on articles of the protocol. We have since read translation of the written memorandum, in which Spaniards make a point that we are unwilling to assume in treaty any responsibility for the protection of life and property during our occupation of Cuba, or to engage to give aid and guidance to Cuba as promised in our note of 30th of July. Under the circumstances we deem it important, while refusing to assume Cuban debt, to express readiness to incorporate in treaty properly guarded stipulations, acknowledging and assuming any legal responsibility to which we are by our own declarations and course of conduct committed. We meet Spaniards Monday 2 p. m. and desire instructions

Sunday, 1.30 a. m.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,

Washington, October 23, 1898.

Your numbers thirteen and fourteen received. Your position as to Cuban debt and your proposed procedure in accordance with engagements of note of July 30th are fully approved.

HAY.

Mr. Hay to Mr. Day.

DEPARTMENT OF STATE,

Washington, October 24, 1898.

The following telegram has been received by the President from Habana:

OCTOBER 23, 1898.

Believe it not possible under existing circumstances for Spain to complete military evacuation before January 1. From unofficial information have reason for believing that agreement with Spanish commission may be reached in fixing date. This not to interfere with our taking possession at earlier date in event of completion of evacuation before that time. This statement made for your information and such direction as you may wish to give.

WADE, Major-General.

To this the President to-day made the following reply:

Answering your message of October 23, you can fix January 1, 1899, for Spain to complete the military evacuation, but it should be done by that time; this date not to interfere with our occupation of such places as may be evacuated at an earlier date or which may require to occupy for military reasons. You must continue to insist that no fixed artillery, or military, or naval armament shall be removed or disposed of.

WILLIAM MCKINLEY.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 15.]

PARIS, October 25, 1898.

At conference yesterday we again informed Spanish commissioners that United States would not subdivide so-called Cuban debt. Spanish commissioners then intimated they were willing to meet American commissioners as to relinquishment of sovereignty over Cuba if some responsibility for such debt was acknowledged. We insisted upon our position and finally asked whether they would refuse to sign any articles unless such acknowledgment was made. To this question the Spanish commissioners asked time for reply, and we adjourned till 4 o'clock p. m. on Wednesday. Would you approve an article in treaty which should provide that the United States, while not contracting any independent liability of its own, would use its good offices with any people or government possessing sovereignty in Cuba for acknowledgment of any debts incurred by Spain for existing internal improvements of a pacific character in the islands; a mixed commission to be appointed to ascertain whether any such debts exist, and if so, their amount. This would necessarily be a precedent for Porto Rico, Guam, and Philippine Islands. Commissioners may feel inclined to make this concession on strength of precedents and statements of publicists as to passing of local debts or debts incurred specially for benefits of transferred territory. We hope for reply before meeting again.

Tuesday, 5.15 afternoon.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
October 25, 1898.

Answering your No. 15, the President directs me to say that under no circumstances will the Government of the United States assume any part of what is known as the Cuban debt, which is fully described in the memorandum of the American commissioners marked "E" received this morning, nor would the United States engage to use its good offices to induce any government hereafter to be established in Cuba to assume such debt. It is not believed that there are any debts outstanding incurred by Spain for existing improvements of a pacific character. It should be made clear what is meant by such improvements and what is included. The President regards it as most desirable that in the present negotiations you should adhere strictly to the terms of the protocol. If this proves impossible, you will ascertain as definitely as you can the exact meaning of their suggestions as to local Cuban debt and the evidences thereof and report to the President with your recommendations.

HAY.

Peace Commissioners to Mr. Hay.

[Telegram.]

No. 16.]

PARIS, October 25, 1898.

Differences of opinion among commissioners concerning Philippine Islands are set forth in statements transmitted herewith. On these we request early consideration and explicit instructions. Liable now to be confronted with this question in joint commission almost immediately.

DAY.

(1) Information gained by commission in Paris leads to conviction that it would be naval, political, and commercial mistake to divide the archipelago. Nearly all expert testimony taken tends to this effect. As instructions provide for retention at least of Luzon, we do not consider question of remaining in Philippine Islands at all as now properly before us. We therefore ask for extension of instructions. Spain governed and defended these islands from Manila, and with destruction of her fleet and the surrender of her army we became as complete masters of the whole group as she had been, with nothing needed to complete the conquest save to proceed with the ample forces we had at hand to take unopposed possession. The Ladrones and Carolines were also governed from the same capital by the same governor-general. National boundaries ought to follow natural divisions, but there is no natural place for dividing Philippine Islands.

There is hardly a single island in the group from which you can not shoot across to one or more of the others—scarcely another archipelago in the world in which the islands are crowded so closely together and so interdependent. Military and naval witnesses agree that it would be practically as easy to hold and defend the whole as a part—some say easier, all say safer. Agree, too, that ample and trustworthy military force could be raised among natives, needing only United States officers and a small nucleus of United States troops; also that islands could be relieved from oppressive Spanish taxation and yet furnish sufficient revenue for the whole cost (of) administration and defense. Great dangers must result from division. Other islands, seeing benefits from our government of Luzon, are sure to revolt and to be aided and encouraged by natives of Luzon, thus repeating in more aggravated form our troubles with Spain about Cuba.

Visayas already in revolt. Division would thus insure lawlessness and turbulence within gunshot of our shores with no prospect of relief unless in Spanish sale of islands to unfriendly commercial rivals, which would probably happen if we hold the most important, Luzon, and release the others. Generally expected now that this would be attempted the moment we released them. If such sale or transfer is to be made at all would be less dangerous to our interests if done by us rather than by Spain. If we do not want the islands ourselves, better to control their disposition; that is, to hold the option on them rather than to abandon it. Could then at least try to protect ourselves by ample treaty stipulations with the acquiring powers. Commercially, division of archipelago would not only needlessly establish dangerous rivals at our door, but would impair value of part we kept.

Present prosperity of Manila depends on its being natural center of import and export trade for the whole group. Large part of its business derived from Iloilo, Cebu, and other points in south. To yield these to unfriendly rivals would be to provide beforehand for diversion of business from our own possessions. Moral obligation not to return Manila and Luzon to the oppressive power from which we have relieved them applies also to the rest of the archipelago, since Spanish power there is now broken and can not be restored without our consent.

We believe public opinion in Europe, including that of Rome, expects us to retain whole of the Philippine Islands, and would prefer that to any other solution save the impossible one of the restoration of Spanish power over all the islands. If a division should be insisted upon, the only one that seems to us admissible would be by a line from the straits of San Bernardino south of Masbate and north of Panay to the northeast corner of Borneo, leaving to the United States all to the westward, including Luzon, Mindoro, and Palawan. This would control the China Sea and give excellent ports of call along the whole line from Borneo to Hongkong; but it would throw away the Visayas, including the best sugar, hemp, and tobacco islands. These contribute a large part of Manila's trade and are inhabited generally by a people nearly as easy to manage as those in Luzon. We are convinced that much injustice has been done inhabitants in published accounts of their character. Even the Mohammedans of Mindanao and the Sulu archipelago, if left enjoyment of religious liberty and given freedom from oppressive taxation, would be found less intractable in opinion of the experts than under the rule of Spain, while the others would be comparatively easy to control and glad to welcome strong and just rule of United States.

CUSHMAN K. DAVIS,
WILLIAM P. FRYE,
WHITELAW REID.

(2) I am unable to agree that we should peremptorily demand the entire Philippine island group. In the spirit of our instructions, and bearing in mind the often declared disinterestedness of purpose and freedom from designs of conquest with which the war was undertaken, we should be consistent in our demands in making peace. Territory permanently held must be taken as war indemnity and with due regard to our responsibility because of the conduct of our military and naval authorities in dealing with the insurgents. Whether this conduct was wise or unwise is not now important. We can not leave the insurgents to mere treaty stipulations or to their unaided resources, either to form a government or to battle against a foe which, (although) unequal to us, might readily overcome them. On all hands it is agreed that the inhabitants of the islands are unfit for self-government. This is particularly true of Mindanao and the Sulu group. Only experience can determine the success of colonial expansion upon which the United States is entering. It may prove expensive in proportion to the scale upon which it is tried with ignorant and semibarbarous people at the other side of the world. It should therefore be kept within bounds.

Accepting Luzon, strategic advantage, as shown by high naval authority, may require cession of that part of the group lying north and west of a line drawn through St. Bernardino Strait south of Luzon to St. Bernardino Islet, and thence by the Naranjos Islands and certain

courses and distances to Tambisan Islands on the northeast coast of Borneo, conveying to the United States Luzon, Mindoro, Palawan, and various other islands, thus controlling the entrance to China Sea with additional harbors and ports of call. The objection that other islands will be acquired by European powers without regard to our interests can be obviated by treaty stipulation for nonalienation without the consent of the United States. There should be also stipulations for absolute freedom of the trade and intercourse among all the islands of the group. This gives us practically control of the situation with a base for the navy and commerce in the east (and?) responsibility for the people to whom we owe obligation and those most likely to become fit for self-government. It affords an opportunity for lessening the burden of colonial government, with room for further expansion if desired. It does not leave us open to the imputation of following agreement to negotiate with demand for whole subject-matter of discussion ourselves.

WILLIAM R. DAY.

(3) The undersigned can not agree that it is wise to take Philippine Islands in whole or in part. To do so would be to reverse accepted continental policy of the country, declared and acted upon throughout our history. Propinquity governs the case of Cuba and Porto Rico. Policy proposed introduces us into European politics and the entangling alliances against which Washington and all American statesmen have protested. It will make necessary a navy equal to largest of powers; a greatly increased military establishment; immense sums for fortifications and harbors; multiply occasions for dangerous complications with foreign nations, and increase burdens of taxation. Will receive in compensation no outlet for American labor in labor market already overcrowded and cheap; no area for homes for American citizens; climate and social conditions demoralizing to character of American youth; new and disturbing questions introduced into our politics; church question menacing. On whole, instead of indemnity—injury.

The undersigned can not agree that any obligation incurred to insurgents is paramount to our own manifest interests. Attacked Manila as part of legitimate war against Spain. If we had captured Cadiz and Carlists had helped us, would not owe duty to stay by them at the conclusion of war. On the contrary, interests and duty would require us to abandon both Manila and Cadiz. No place for colonial administration or government of subject people in American system. So much from standpoint of interest; but even conceding all benefits claimed for annexation, we thereby abandon the infinitely greater benefit to accrue from acting the part of a great, powerful, and Christian nation; we exchange the moral grandeur and strength to be gained by keeping our word to nations of the world and by exhibiting a magnanimity and moderation in the hour of victory that becomes the advanced civilization we claim, for doubtful material advantages and shameful stepping down from high moral position boastfully assumed. We should set example in these respects, not follow in the selfish and vulgar greed for territory which Europe has inherited from medieval times. Our declaration of war upon Spain was accompanied by a solemn and deliberate definition of our purpose. Now that we have achieved all and more than our object, let us simply keep our word. Third article of the protocol leaves everything concerning the control of the Philippine Islands to negotiation between the parties.

It is absurd now to say that we will not negotiate but will appropriate the whole subject-matter of negotiation. At the very least let us adhere to the President's instructions and if conditions require the keeping of Luzon forego the material advantages claimed in annexing other islands. Above all let us not make a mockery of the injunction contained in those instructions, where, after stating that we took up arms only in obedience to the dictates of humanity and in the fulfillment of high public and moral obligations, and that we had no design of aggrandizement and no ambition of conquest, the President among other things eloquently says:

It is my earnest wish that the United States in making peace should follow the same high rule of conduct which guided it in facing war. It should be as scrupulous and magnanimous in the concluding settlement as it was just and humane in its original action.

This and more, of which I earnestly ask a reperusal, binds my conscience and governs my action.

GEORGE GRAY.

Wednesday, 12.30, night.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 26, 1898.

The information which has come to the President since your departure convinces him that the acceptance of the cession of Luzon alone, leaving the rest of the islands subject to Spanish rule, or to be the subject of future contention, can not be justified on political, commercial, or humanitarian grounds. The cession must be of the whole archipelago or none. The latter is wholly inadmissible and the former must therefore be required. The President reaches this conclusion after most thorough consideration of the whole subject, and is deeply sensible of the grave responsibilities it will impose, believing that this course will entail less trouble than any other and besides will best serve the interests of the people involved, for whose welfare we can not escape responsibility.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 17.]

PARIS, October 27, 1898.

Pursuant to offer approved by you and afterwards made by us to Spanish commissioners, we contemplate insertion in treaty, unless otherwise instructed, of the following clause:

The United States assumes and will discharge the obligations resting upon it under international law for the protection of life and property in the island of Cuba during its occupation thereof.

DAY.

Mr. Day to Mr. Adeo.

[Telegram.]

PARIS, October 27, 1898.

Special (No. 17 A) for the President.]

Our telegram No. 15 to Secretary of State Hay informs you of the question put by us to Spanish commissioners on Monday. Last night Spanish ambassador called upon Mr. Reid. Represented that Spanish commissioners must break off treaty rather than answer it in such wise as to abandon their claims on Cuban debt unless they could get some concession elsewhere. Mr. Reid assured ambassador that we could not assume this debt. The American people and commission absolutely united upon it without exception and without distinction of party. Ambassador then urged the question to be laid aside until it could be seen if some concessions elsewhere might not be found which would save Spanish commission from utter repudiation at home; if not, rupture was inevitable. Montero Rios could not return to Madrid now if known to have accepted entire Cuban indebtedness.

Mr. Reid said commissioners insisting on settlement of Cuban business now. Ambassador again said that if forced to direct answer on the question now must answer no and break off conference. Mr. Reid earnestly urged them not to take that course, declaring that it must be far worse for Spain. Ambassador then begged him to search for some possible concession somewhere, and inquired about Philippine Islands. Mr. Reid said at first the American people not very eager for them; believed, however, had practically conquered them when conquered capital, sunk fleet, and captured arms, and had right to all of them. Preponderance of sentiment in favor of the taking all, but respectable and influential minority which did not go to that length. It was possible, he said, but not probable, that out of these conditions the Spanish commissioners might be able to find something either in territory or debt which might seem to their people at home like a concession.

To-day Spanish commissioners presented document now being translated, which we understand accepts articles proposed by us, subject to agreement in final treaty, and invite proposals as to the Philippine Islands from us. After meeting Spanish secretary said to me that they accepted our articles in the hope of liberal treatment in Philippine Islands; said no government in Spain could sign treaty giving up everything and live, and that such surrender without some relief would mean national bankruptcy. He made further appeal, to which I made no answer except to receive his communication. We shall now be in position to take up Philippine Islands matter. We deem it proper that you should know exact situation before sending conventional instructions on Philippine Islands. We are inclined now to believe that rupture to-day only averted because Spaniards grasped at hint thrown out in the conversation of Mr. Reid last night with ambassador.

Thursday morning, 3.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 18.]

PARIS, October 27, 1898.

At meeting to-day Spaniards accepted our last draft articles 1 and 2 as to Cuba, Porto Rico, and Guam in exact language of protocol, expressly subject to agreement being reached on all the articles which treaty should contain. Then asked when we should be ready to proceed to question of Philippine Islands, and on our motion adjournment had till Monday for that purpose, Tuesday and Wednesday following being religious holidays. Understood if not ready Monday can have what further time desired.

Thursday, 4.30 afternoon.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

WASHINGTON, October 27, 1898.

President in Philadelphia. Have sent him to-day's dispatches. He returns here to-morrow morning. Instructions will be sent to-morrow.

Thursday, 1.30 afternoon.

HAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,

Washington, October 28, 1898.

While the Philippines can be justly claimed by conquest, which position must not be yielded, yet their disposition, control, and government the President prefers should be the subject of negotiation as provided in the protocol. It is imperative upon us that as victors we should be governed only by motives which will exalt our nation. Territorial expansion should be our least concern; that we shall not shirk the moral obligations of our victory is of the greatest. It is undisputed that Spain's authority is permanently destroyed in every part of the Philippines. To leave any part in her feeble control now would increase our difficulties and be opposed to the interests of humanity. The sentiment in the United States is almost universal that the people of the Philippines, whatever else is done, must be liberated from Spanish domination. In this sentiment the President fully concurs. Nor can we permit Spain to transfer any of the islands to another power. Nor can we invite another power or powers to join the United States in sovereignty over them. We must either hold them or turn them back to Spain.

Consequently, grave as are the responsibilities and unforeseen as are the difficulties which are before us, the President can see but one plain path of duty—the acceptance of the archipelago. Greater difficulties and more serious complications—administrative and international—would follow any other course. The President has given to the views

of the commissioners the fullest consideration, and in reaching the conclusion above announced in the light of information communicated to the commission and to the President since your departure, he has been influenced by the single consideration of duty and humanity. The President is not unmindful of the distressed financial condition of Spain, and whatever consideration the United States may show must come from its sense of generosity and benevolence, rather than from any real or technical obligation. The terms upon which the full cession of the Philippines shall be made must be left largely with the commission. But as its negotiations shall proceed it will develop the Spanish position, and if any new phase of the situation arise, the commission can further communicate with the President. How these instructions shall be carried out, and whether to be presented as a peremptory demand, the President leaves to the judgment and discretion of the commissioners.

Friday, 3.30 afternoon.

HAY.

Mr. Hay to Mr. Day.

[Telegram—Personal.]

DEPARTMENT OF STATE,
Washington, October 28, 1898.

The instruction sent to-day about Philippines has the cordial concurrence of the seven members of Cabinet now in Washington, Long being absent in Massachusetts. Gage has written you in the same sense. Let me add your course has the warm approval of us all.

HAY.

Mr. Day to Mr. Hay.

No. 19.]

PARIS, October 29, 1898.

Telegraphic instructions as to Philippine Islands received. We will, unless otherwise instructed, present on Monday an article to provide for cession of the whole group, together with statement that we are prepared to insert in the treaty a stipulation for the assumption by the United States of any existing indebtedness of Spain incurred for necessary works and improvements of a pacific character in the Philippine Islands.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

WASHINGTON, October 30, 1898.

Your No. 19 received. Your proposition to assume any existing indebtedness of Spain incurred for public works and improvements of a pacific character in the Philippines is approved.

HAY.

Mr. Frye to Mr. Adeé.

[Telegram.]

PARIS, October 30, 1898.

(For the President.)

It seems to me that the most undesirable happening would be our return without a treaty of peace, and yet that is probable in my opinion.

If the Spanish commissioners should accede to our demands as at present outlined they could not return home, while our country, it may be, would not justify us in tendering any more liberal terms. Spain made a determined fight to secure concessions as to the Cuban debt, while we were persistent in our refusal to yield anything. Our articles were accepted, but provisionally, for if no final agreement is reached they, too, failed. It seemed to me that we might have agreed to use our good offices with any government hereafter established in Cuba to secure the assumption by it of any indebtedness incurred in internal improvements there, and ourselves assume any like indebtedness in the territories finally ceded to us. The amount could not be large. Might we not go further and agree to pay to Spain from ten to twenty million dollars if thus a treaty could be secured? If no treaty, then war, a continued disturbance of business, an expenditure of a million dollars a day, and further loss of life. Would not our people prefer to pay Spain one-half of war expenditures rather than indulge in its costly luxury? Europe sympathizes with Spain in this regard exactly.

The correspondent of the London Times, in his yesterday's letter, criticised severely our attitude. The precedents for the last century are antagonistic to our position. Of course we will not pay debts incurred in the suppression of colonial rebellions. I do not forget that we demand no money indemnity for cost of war to us. It may be because our enemy is bankrupt. I am sorry the Carolines were not taken by us, as they are infinitely more valuable than the Ladrones. If war is resumed I hope orders will be given Dewey to seize at once all of the Philippine Islands, also the Carolines.

You may be sure I should not make these suggestions if I did not regard a treaty of peace of vital importance to our country and the danger of failure to secure it gravely imminent.

Sunday, midnight.

FRYE.

Mr. Hay to Mr. Frye.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 1, 1898.

Your message marked special received yesterday. The President directs me to say that no one would more deeply regret than himself a failure to make a treaty of peace, and is surprised to hear from you that that result is not improbable. He hopes and believes that your negotiations can be so conducted as to prevent so undesirable a happening. He desires the commissioners to be generous in all matters which do not require a disregard of principle or duty, and whatever the commissioners may deem wise and best in the matter of the debts for internal improvements and public works of a pacific character in the Philippines will receive his favorable consideration. Nor does he desire the commission to disregard well-established precedents or make any conditions which will not be worthy of ourselves and merit the approval of the best judgment of mankind. If it should be the opinion of the commissioners that there should be paid a reasonable sum of money to cover peace improvements, which are fairly chargeable to us under established precedents, he will give cheerful concurrence. The money payment, if any is determined upon, should

rest solely upon the considerations suggested in your message of Sunday night. He desires that you may read this to the commission with your message to him.

HAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE.

(Undated; about November 1, 1898.)

Surely Spain can not expect us to turn the Philippines back and bear the cost of the war and all claims of our citizens for damages to life and property in Cuba without any indemnity but Porto Rico. Does she propose to pay in money the cost of the war and the claims of our citizens and make full guarantees to the people of the islands and grant to us concessions of naval and telegraph stations in the archipelago and privilege to our commerce, the same as enjoyed by Spain, rather than surrender the archipelago?

HAY.

Mr. Day to Mr. Ade.

[Telegram.]

UNITED STATES PEACE COMMISSION,

Paris, November 3, 1898—10 a. m.

(For the President.—Special.)

After a careful examination of the authorities, the majority of the commission are clearly of opinion that our demand for the Philippine Islands can not be based on conquest. When the protocol was signed Manila was not captured, siege was in progress and capture made after the execution of the protocol. Captures made after agreement for armistice must be disregarded and status quo restored as far as practicable. We can require cession of Philippine Islands only as indemnity for losses and expenses of the war. Have in view, also, condition of islands, the broken power of Spain, anarchy in which our withdrawal would leave the islands, etc. These are legitimate factors. Have written fully.

Thursday, 11.30 morning.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,

Washington, November 3, 1898.

The President has received your dispatch of this date and awaits your letter. Meantime, however, the question may be ultimately determined. He assumes you have not yielded the claim by right of conquest. In fact, the destruction of the Spanish fleet on May 1 was the conquest of Manila, the capital of the Philippines. The President has confidence that the commission will be able to make a treaty on just and honorable grounds; a failure to do so would be greatly to be regretted.

HAY.

Mr. Day to Mr. Ade.

[Telegram.]

PARIS, November 4, 1898—2.20.

(For the President—Special.)

Telegram of November 3 from the Secretary of State received. We have not yielded the claim by a right of conquest. Telegram to you on that subject was on the afternoon of discussion with Spanish commissioners. We shall not foreclose important matters without advising you. We are doing all in our power to secure treaty in accordance with your views. In the opinion of a majority of the commission we shall not promote this end by putting forward the claim that Manila was taken by conquest on May 1. Subsequent military operations and capitulation, no less than mutual acceptance of protocol, preclude making demand upon that ground. Our opinion as to ineffectiveness of capitulation after protocol has already been stated.

DAY.

I think we can demand cession of entire archipelago on other and more valid grounds than a perfected territorial conquest of the Philippine Islands, such as indemnity or as conditions of peace imposed by our general military success and in view of our future security and general welfare, commercial and otherwise. I think the protocol admits all these grounds, and that the ground alone of perfected territorial conquest of the Philippine Islands is too narrow and untenable under protocol.

Friday, 3.30 afternoon.

CUSHMAN K. DAVIS.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,

Washington, November 5, 1898.

Yours of November 4, special, and that of Senator Davis received. The President has no purpose to question the commission's judgment as to the grounds upon which the cession of the archipelago is to be claimed. His only wish in that respect is to hold all the ground upon which we can fairly and justly make the claim. He recognizes fully the soundness of putting forward indemnity as the chief ground, but conquest is a consideration which ought not to be ignored. How our demand shall be presented, and the grounds upon which you will rest it, he confidently leaves with the commissioners. His great concern is that a treaty shall be effected in terms which will not only satisfy the present generation but, what is more important, be justified in the judgment of posterity. The argument which shall result in such a consummation he confides to the commission. He appreciates the difficulties and embarrassments, and realizes the delicate work before you, but that the commissioners will be able to conclude a treaty of peace satisfactorily to the country, justified by humanity and by precedent, is the belief of the President and your countrymen generally.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 20.]

PARIS, November 5, 1898.

Spanish commissioners, in paper presented yesterday, maintain that demand for whole Philippine Islands violates protocol, which by its terms contemplated only provisional occupation Manila and did not impair Spanish sovereignty over group. They cite circular French minister for foreign affairs of August last announcing to French ambassadors in Europe the signature of protocol and saying our demand Philippine Islands was for provisional occupation of Manila by the American forces; also clause of capitulation Manila providing for return of arms to Spanish forces on evacuation of city. They also invoke our argument that Spain is now precluded from bringing forward Cuban debt because she failed to mention it during negotiation of protocol. They quote interviews between the President and Cambon to show that former did not intend to demand cession group, but agreed that Philippine Islands question should be subject of negotiation at Paris and particularly his declaration that clause in protocol did not decide anything against either Government; also refer to answer in Spanish note of August 7 to demand as to Philippine Islands as showing their Government's understanding thereof, and argue that United States by omitting to deny admitted correctness of that understanding. They further maintain that nothing has occurred since signing of protocol to justify United States in enlarging demands.

As to our proposal to assume debts for pacific improvements, they say archipelago burdened with debt 400,000,000 pesetas, or \$40,000,000, secured by mortgages on revenues Manila custom-house, vesting in third parties of various nationalities rights which do not belong to Spain. They declare and say that they hope there will be no necessity to repeat that Spain can not and ought not, since respect for others forbids it, to agree in any treaty to anything implying impairment or suppression or even disregard of private rights of others against the will of their legitimate and special proprietors. They say there are besides unsecured colonial debts. These likewise forbid acceptance of American proposal which involves revision of legitimate acts of internal sovereignty, the debt having been lawfully contracted. Any inquiry whether proceeds were judiciously invested is inadmissible on grounds of national self-respect or as affecting obligation of debt.

Spanish paper then discusses armistice; maintains ineffectiveness capitulation of Manila, and holds acts of military administration unlawful, such as taking public funds, collecting revenues, and controlling courts and police; and specifically complains of alleged release on September 21 of 13 prisoners in jail for common crimes, which it describes as an unheard of act. On points of law they cite article 140 of our instructions to armies in field, Halleck's International Law, and Field's Code, and say that, according to authorities and the protocol, treaty of peace should provide for immediate delivery of Manila to Spain, immediate release of garrison, return to Spanish Government of all funds and public property taken by American army since its occupation of place, and all taxes collected, and indemnification of Spain for damages occasioned by detentions Spanish troops resulting in spread of Tagalo insurrection and involving ill-treatment of Spanish prisoners.

In conclusion, Spanish commissioners invite American commissioners to present a proposition in accordance with articles 3 and 6 of the protocol, and covering obligations of United States growing out of acts of war committed after signing of protocol, in seizing Manila and doing of things in excess of rights under article 3. We have word of French minister for foreign affairs that statement in his circular was oversight and will immediately be corrected. We are preparing reply to Spanish paper to be presented at next joint meeting on Tuesday afternoon.

Saturday, 6 afternoon.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 21.]

PARIS, November 9, 1898.

In order to finish copying answer to Spanish paper on the Philippine Islands, we asked postponement of meeting yesterday from 2 to 4 o'clock p. m. Spanish commissioners replied that they had engagement later in the afternoon, and suggested postponement till 2 to-day. We met accordingly this afternoon and presented answer. We repel Spanish assumption that we base our demands as to Philippine Islands on concessions in the protocol, as in the case of Cuba and Porto Rico, but we maintain that by third article we reserved and secured full and absolute right to make demands in future, and that our present demands are justified by and are included in the terms of the protocol. We also deny that provisions of the protocol can be qualified or limited by anything in Spanish notes prior to its signature. We show by review of the negotiations and of interviews at Executive Mansion that protocol was made only because Spanish response of August 7 was unacceptable.

We quote to same effect from French Yellow Book telegram of Mr. Cambon transmitting draft of protocol and saying United States had decided to state precisely (preciser) therein the terms on which negotiations for peace would be undertaken. We quote in full note of Secretary of State to Cambon, of August 10, and show that our interpretation is justified by written correspondence, conversations at Executive Mansion, and terms of protocol. We go over this ground at length. We express surprise at apparent renewal of Cuban debt question so soon after it was waived. We quote their language as to not wishing to have to refer to this again, and as to not permitting any discussion of certain phases of the question, characterizing this as language unusual in diplomacy unless to convey a deliberate ultimatum. We then inquire again as to final intentions of Spanish commissioners upon this subject. We call attention to admitted fact that considerable part of proceeds Cuban loans was expended in prosecuting war against United States, and inquire if they mean to be understood as refusing to permit any consideration of this expenditure.

We then take up question of capitulation of Manila, and maintain that our powers as occupant under the protocol are the same in all respects as to government and administration as under capitulation. In closing, we refer to another aspect of capture of Manila; noting that Spanish commissioners complain of it as occurring a few hours

after signature of protocol, we ask if just and impartial mind might not consider why not captured before—namely, through humane desire to save city and Spanish residents from dreaded vengeance of insurgents, and suggest that men to whom that humane delay was due, General Merritt and Admiral Dewey, were entitled to better treatment than their insinuation of needless slaughter and conscious violation of protocol.

Our answer covered 50 typewritten pages. Spanish commissioners asked till Saturday to study it, and reserved right to ask, if necessary, for more time. At this, the next meeting, we may need to outline definite and final propositions on whole question of Philippine Islands, including possible cash payments.

Wednesday evening, 9.30.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 22.]

PARIS, November 10, 1898.

We have information Philippines debt as follows: Prior to insurrection, August, 1896, colony paid its way by local taxes and moderate tariff. After war began captain-general instructed to draw from prosperous local banks, such as deposit bank, local savings bank, and Banco Hispano-Filipino. He also obtained advances from friars. Expenses increasing, colonial minister empowered to draw on funds raised for expenses Cuban war, which he did to the extent of 7,660,403 $\frac{1}{100}$ pesos, or dollars. Expenses still increasing Government was authorized by law of Cortes, tenth June, 1897, published Madrid Gazette 29th June, to grant general guarantee of nation for operations of credit which would be necessary for Philippine Islands in consequence of disturbances there. Then royal decree 28th June, 1897, authorized colonial minister to issue four hundred thousand hypothecated bonds of Philippine Islands treasury, at six per cent, redeemable at par in forty years, with special guarantee of Philippine Islands revenues and general guarantee of Spanish nation.

The issue consists of one series of two hundred fifty thousand bonds of five hundred pesetas each, and another of one hundred and fifty thousand bonds of one hundred pesos each; first series reserved for issue in Spain, two hundred thousand immediately placed, and fifty thousand kept back by minister for the colonies and placed later on, also in Spain; second series intended for Manila, part to reimburse advances and rest to be placed there. This loan produced 38,570,494 $\frac{2}{100}$ pesos net. Madrid Gazette, 20th October, 1898, shows that of this sum 19,891,800 $\frac{6}{100}$ were used for war in Philippine Islands; 7,660,403 $\frac{1}{100}$ reimbursed to Cuban treasury, and 10,938,477 $\frac{2}{100}$ advanced to same, leaving balance 13th June, 1898, to credit of Philippine Islands treasury of 79,813 $\frac{5}{100}$ pesos. Nothing in Gazette or other official document shows any part of this loan applied to purely local purposes or objects of utility. It is said that not 5 per cent of Philippine Islands bonds have been placed outside of Spain and colonies, and of fifteen million intended for Manila between ten and eleven million actually placed there and rest returned to Spain and placed easily, chiefly in Barcelona.

You may expect very shortly a telegram embodying views of American commissioners on Philippine Islands question.

DAY.

Peace commissioners to Mr. Hay.

[Telegram.]

No. 23—Special.]

PARIS, November 11, 1898.

Our commissioners desire definite instructions as to Philippine Islands as soon as practicable. The following statements embody individual expression of their views upon the subject.

MOORE.

(I) Holding the view that the Philippine Islands group is likely to prove a burden rather than a benefit to the United States, I would minimize our holdings there to the lowest point consistent with our obligations. This view I undertook to express in my telegram of October 25. Our advantage is a naval and commercial base in the East. More than this we should not seek. Our obligations seem to require us to take Luzon and islands so near as to be essential thereto. Assuming that the President and Cabinet have determined to take whole group, then I believe we will be justified in paying lump sum, say fifteen millions, recognizing that we are dealing with a bankrupt people; that Spain loses her colonies, the revenues of which are charged with outstanding debts, and parts with a considerable portion of her revenue-producing domain. I would assume no part of the so-called Cuban and Philippine Islands bonded debt.

Rather than fail to secure treaty of peace I think demand for whole group might be so modified as to let Spain keep Mindanao and Sulu group without conditions, paying same sum as above indicated. These islands with money payment would be a substantial concession. In that alternative we might secure one of the Caroline group as naval station and at the same time safe-guard our interests and people there.

DAY.

(2) Favor taking the entire group and paying ten million dollars in gold, a fair estimate of debt properly chargeable to the Philippine Islands. If necessary to secure treaty, and I believe it is, I would take Luzon, Mindoro, Palawan, also Ponape of the Carolines, paying from five to ten millions of dollars. I would require: First, free interchange of products of the islands for consumption there, also that products of other islands in group intended for export from Manila be admitted free with distribution of goods imported into Manila to other islands without additional duties. Second, the right of entry into such ports of the Philippine Islands as are not ceded, upon terms of equal favor with Spanish ships and merchandise in relation to port and customs charges, while Spain shall have similar rights as to her subjects and vessels in the ports of any territories in their Pacific Islands ceded to the United States. Third, charges against American vessels for entry into peninsular ports of Spain no higher than imposed on Spanish vessels in American ports. Fourth, in all ports of these islands remaining under Spanish rule our citizens shall have all questions at issue tried before an American consul or other duly qualified American officer. Fifth, all persons held by Spain for political acts performed in Cuba, Porto Rico, Ponape, Guam, or the Philippine Islands to be immediately released. Sixth, absolute freedom of religion in the Philippine Islands, Ladrones, and Caroline Islands. Seventh, United States shall have the right to land cables on any of these islands and the tolls for

messages on our trans-Pacific cables or interisland lines shall be regulated by the Government of the United States. Eighth, United States shall have the right to extend its submarine cables from Porto Rico, via the Canaries, to the coast of Africa or Spain and thence to any Spanish Mediterranean island. Apply so many of these articles as may be necessary if the entire Philippine Islands group is taken.

FRYE.

(3) The undersigned begs to say that, while adhering to the views expressed in his telegram of the 26th October, he is of the opinion that it is immensely important to the country that we should not separate without the conclusion of a treaty of peace. A renewal of the state of active war, even if Spain's resistance be continued feeble or none at all, would compel us to seize with the strong hand all of her colonial possessions. This is not a rôle that is desirable for the United States to assume. We have achieved all and more than we went to war to accomplish, and Spain has conceded it in a protocol. The same protocol left the fate of the Philippine Islands to be determined by a treaty to be thereafter concluded between the two countries. The stipulation was not that it should be determined as the United States should dictate, but by a treaty between the parties. This necessarily leaves it open to a negotiation which must result in an agreement which implies a quasi freedom of consent by Spain as well as by the United States. If that consent can not be obtained we are relegated to the state of active war which the armistice suspended, and the sword will again be drawn and the conquest completed. Though Spain makes no physical resistance, she will state her case to the world as having consented to do all that she promised to do in the protocol, but that she could not subscribe to terms which she had no right to expect.

It would, in the opinion of the undersigned, be most unfortunate if the United States should feel compelled to abandon the high position taken at the beginning of the war and, instead of crowning their triumphs by setting an example of moderation, restraint, and reason in victory, act the part of a ruthless conqueror. Believing that the result of a failure to obtain a treaty would be the forcible seizure of the whole Philippine Islands group, an event greatly to be deprecated as inconsistent with the traditions and civilization of the United States, I would be willing to take the islands by the cession of a treaty of peace, and I would, to that end, make such reasonable concessions as would comport with the magnanimity of a great nation dealing with a weak and prostrate foe. I mean that I would prefer the latter alternative to the former, not that I have changed my mind as to the policy of taking the Philippine Islands at all.

GEORGE GRAY.

(4) Our duty not to return to Spain any territory in which we have broken down her rule has been enforced in our instructions from the outset. Furthermore, the right of a nation which has been successful in a war forced upon it to exact an indemnity afterwards for the cost of the war is recognized. Adding pensions and other proper items to this cost as already tabulated, we have a total of between two hundred and fifty and three hundred millions. Spain is without money or the means of procuring it, and can therefore pay us in nothing but terri-

tory. She has so far given us only Porto Rico. How far does that go towards repaying our outlay in cash, to say nothing of the derangement of business and loss of life? For a standard of valuation we may perhaps refer to the five considerable purchases of territory we have made within a century and the others we have considered.

We paid twelve millions for Louisiana; five million for Florida; fifteen million for territory acquired from Mexico under the treaty of Guadalupe, including New Mexico, Colorado (and) California; ten million for territory acquired in like manner by the Gadsden purchase; and seven million two hundred thousand for Alaska. We once offered seven million and a half for St. Thomas and St. Johns, and later could have had that whole group for five million. For Cuba we once talked of paying one hundred million, and at another time a hundred and twenty-five million. Taking this last as coming nearest to fixing a standard of value in the present case, we may reckon that Porto Rico, farther from us, less important to the protection of our coasts, and only one-twelfth size, though with nearly one-half as much population, could not by any possibility be regarded as indemnity for more than forty or fifty million of our just claim. Even if Cuba were added in its present devastated and depopulated condition, the present valuation of the two would not repay the outlay forced upon us by the war; but we have all along refused to take Cuba. What else has Spain with which to repay us except the archipelago, which lies at our mercy with its capital in our possession? Its area is just about two and a half times that of Cuba, but instead of being near our coasts it is halfway around the globe from us. Some of our people think it worthless to us, and probably few that it could be valued so high as the remaining two hundred or two hundred and fifty million of our cash outlay; but it is an asset of some sort—whether to develop or to dispose of—and we ought now to retain the power to do either as the Government and the people on fuller knowledge may determine.

Are at the end of six weeks of fruitless negotiation (one-half longer than it took France and Germany to agree upon their first treaty of peace after their last war) this suggests to me now the desirableness of our calling time on the Spanish commissioners, and giving notice that we must either make some progress or close the protocol. At the same time, in our own interest, we must shrink from renewing the war, even in name, over our prostrate foe, and must take into consideration the great desirableness of securing a definite and permanent treaty of peace. To do this I would be willing to make some concessions from our just dues if sure they could not be misinterpreted and used as a pretext for greater delays and further unreasonable demands.

I would be willing, as one proposition, under such conditions and only as a certain means of speedily securing a treaty, to leave Spain Mindanao and the Sulu group in the southern part of the Philippine Islands—that is to say, the Mohammedan part of the archipelago, being about one-third of it—and take instead all the Carolines and the Ladrones, while making stringent requirements as to the freedom of religion as well as forbidding Spanish restrictions on trade with the rest of the Philippine Islands. I would not compromise our position on the Cuban debt by doing anything to recognize that of the Philippine Islands, it being apparent that it was used to prosecute the war against insurgents, partly in the Philippine Islands and partly in Cuba; but rather than lose a treaty and resume hostilities I would,

as another proposition, be willing to take the Carolines in addition to all the Philippine Islands, and in return for the Carolines and for past pacific expenditures in them and in the Philippine Islands I would be willing to give a lump sum of from twelve to fifteen million dollars, providing ultimately for this sum out of the revenues of the islands; and, finally, as a last concession from this second proposition, I would not sacrifice the treaty for the sake of retaining Mindanao and the Sulu group.

WHITE LAW REID.

(5) It is my opinion that the existing situation requires that the United States present without much delay an ultimatum insisting upon the signature of a treaty for the cession by Spain of the entire Philippine Islands archipelago, Porto Rico, and Guam and the relinquishment of sovereignty over Cuba. I am also of the opinion that we should pay no money to Spain on account of her debt or on any other account whatsoever, and that we should so declare in an ultimatum, if necessary. It now appears that Spain has paid nothing for any pacific improvements in the Philippine Islands. They have all been paid for by the proceeds of local taxation of the islands. I believe that one of the purposes of Spain in protracting these negotiations is to entangle the United States with some of the European powers. The Spanish commissioners have reoccupied their first position, that the United States shall assume or be bound for the so-called colonial debt, and it is plain that so long as her commissioners thus contend the negotiation stands just as it did at its beginning. I do not believe we shall ever get a treaty except as a result of such an unyielding ultimatum.

Friday morning, 29th.

C. K. DAVIS.

Mr. Hay to Mr. Day.

[Telegram.]

WASHINGTON, November 13, 1898.

A treaty of peace is of the highest importance to the United States if it can be had without the sacrifice of plain duty. The President would regret deeply the resumption of hostilities against a prostrate foe. We are clearly entitled to indemnity for the cost of the war. We can not hope to be fully indemnified. We do not expect to be. It would probably be difficult for Spain to pay money. All she has are the archipelagoes of the Philippines and the Carolines. She surely can not expect us to turn the Philippines back and bear the cost of the war and all claims of our citizens for damages to life and property in Cuba without any indemnity but Porto Rico, which we have and which is wholly inadequate. Does Spain propose to pay in money the cost of the war and the claims of our citizens, and make full guarantees to the people of the Philippines, and grant to us concessions of naval and telegraph stations in the islands, and privileges to our commerce the same as enjoyed by herself rather than surrender the archipelago? From the standpoint of indemnity both the archipelagoes are insufficient to pay our war expenses, but aside from this do we not owe an obligation to the people of the Philippines which will not per-

mit us to return them to the sovereignty of Spain? Could we justify ourselves in such a course, or could we permit their barter to some other power? Willing or not, we have the responsibility of duty which we can not escape.

You are therefore instructed to insist upon the cession of the whole of Philippines, and, if necessary, pay to Spain ten to twenty millions of dollars, and if you can get cession of a naval and telegraph station in the Carolines, and the several concessions and privileges and guaranties, so far as applicable, enumerated in the views of Commissioners Frye and Reid, you can offer more. The President can not believe any division of the archipelago can bring us anything but embarrassment in the future. The trade and commercial side, as well as the indemnity for the cost of the war, are questions we might yield. They might be waived or compromised, but the questions of duty and humanity appeal to the President so strongly that he can find no appropriate answer but the one he has here marked out. You have the largest liberty to lead up to these instructions, but unreasonable delay should be avoided.

HAY.

Mr. Day to Mr. Adeo.

[Telegram.]

PARIS, November 15, 1898.

(For the President.—Special.)

Your final instruction on Philippine Islands received. We are formulating proposals for treaty in accord therewith. Spaniards asked and we granted adjournment to Wednesday. They say have not received copies from Madrid, which are needing. It is probable that Spanish commissioners will not sign treaty, but this is only surmise. Spanish sources are filling European press with charges of violation of protocol and understanding at Washington in claim now made for Philippine Islands. You have no doubt seen our counter statement sent out by Associated Press. If we break, I think pretty full synopsis of correspondence and negotiations leading to protocol should appear in American, also in friendly press on this side. We shall pursue this course unless you disapprove.

Tuesday morning, 2.30.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

Special.]

DEPARTMENT OF STATE,
Washington, November 15, 1898.

The President earnestly hopes there may be no break, but approves the suggestion made in your special of this date.

Tuesday afternoon.

HAY.

Mr. Moore to Mr. Hay.

[Telegram.]

No. 24. Special.]

PARIS, November 15, 1898.

Unless otherwise instructed, the American commissioners propose to present to the Spanish commissioners, perhaps at the joint meeting to-morrow, the following proposition as embodying final position of our Government in the present negotiations:

The proposal presented by the American commissioners in behalf of their Government for the cession of the Philippine Islands to the United States having been rejected by the Spanish commissioners, and the counter proposal of the latter for the withdrawal of the American forces from the islands and the payment of an indemnity by the United States to Spain having been rejected by the American commissioners, the American commissioners, deeming it essential that the present negotiations, which have already been greatly protracted, should be brought to an early and definite conclusion, beg now to present a new proposition, embodying the concessions which, for the sake of peace, their Government is, under the circumstances, willing to tender.

The Government of the United States is unable to modify the proposal heretofore made for the cession of the entire archipelago of the Philippine Islands, but the American commissioners are authorized to offer to Spain, in case the cession should be agreed to, the sum of twenty million dollars, to be paid in accordance with the terms to be fixed in the treaty of peace; and, it being the policy of the United States to maintain in the Philippine Islands an open door to the commerce of the world, the American commissioners are prepared to insert in the treaty now in contemplation a stipulation to the effect that for a term of years Spanish ships and merchandise shall be admitted into the ports of the Philippine Islands on the same terms as American ships and merchandise. The American commissioners are also authorized and prepared to insert in the treaty, in connection with the cessions of territory by Spain to the United States, a provision for the mutual relinquishment of all claims for indemnity, national and individual, of every kind, of the United States against Spain and of Spain against the United States, that may have arisen since the beginning of the late insurrection in Cuba and prior to the conclusion of the treaty of peace.

Upon the acceptance by the Spanish commissioners of the proposals herein made as to the Philippine Islands in connection with the demands as to Cuba, Porto Rico, and other Spanish islands in the West Indies and Guan heretofore provisionally agreed to, but not otherwise, it will be possible for the joint commission to proceed to the consideration and adjustment of other matters, including those which, as subsidiary and incidental to the principal provisions, should form a part of the treaty of peace. In particular the American commissioners desire to treat of religious freedom in the Caroline Islands as agreed to in eighteen hundred eighty-six, of the release of prisoners now held by Spain for political offenses in connection with the insurrection of Cuba and Philippine Islands; the acquisition of the island of Kusae or Ualan¹ in the Carolines for a naval and telegraph station; and of cable-landing rights at other places in Spanish jurisdiction; and the revival (of) certain treaties heretofore in force between the United States and Spain.

Tuesday evening, 6.20.

MOORE.

Mr. Hay to Mr. Day.

[Telegram.]

Special.]

DEPARTMENT OF STATE,
Washington, November 16, 1898.

Your No. 24 received. The course proposed is approved.

HAY.

¹ Kusae and Ualan are different names for the same island.

Mr. Moore to Mr. Hay.

[Telegram.]

No. 25.]

PARIS, November 18, 1898.

Spanish commissioners yesterday presented long paper in which they reply to our last memorandum. Discuss provisions of protocol relating to Philippine Islands, and support by argument their recent proposals thereon. They declare that our memorandum abounds in grave errors of fact and strange doctrines of law, and deny that they have withdrawn their provisional acceptance of our articles on Cuba, Porto Rico, and Guam; that acceptance, however, was conditional upon agreement on whole treaty and was given for compensation which might be obtained in other articles for sacrifice of Spain as to debts, but only subsequent development in negotiations is the demand for cession of the Philippine Islands. Spanish commissioners would therefore have been justified in insisting on claims as to transmission of colonial obligations and debts, but have confined themselves to contradicting affirmations to which they could not assent. They quote royal decrees and the text of bonds to disprove that greatest part of the Cuban debt was contracted in the effort first to conquer Cuban insurgents and then to oppose the United States, as well as to show that colonial revenues were primary security for debt.

They maintain legal right of Spain so to contract the debt and the legal validity of the debt so contracted, and cite our demands that Spain suppress rebellion and maintain order in Cuba as a proof of our recognition of her sovereignty in the premises and the legitimacy of its exercise for that purpose; but in concluding this part of the paper they say the duty of defending the bondholders does not belong to Spain; that it is sufficient for her to defend the legitimacy of her action, her perfect right to create the debt and the mortgage by which it was secured, and her strict right not to pay interest or principal except upon proof of insufficiency of mortgaged revenues. The responsibility of failing properly to apply revenues will rest on those who control them, and not upon Spain, who has not the means to compel the performance of the duty. Spain neither will nor can do anything to impair the rights of bondholders, who can without great effort demonstrate [the] justice of their cause.

Spanish commissioners then discuss Article III of the protocol and contend that it should be read in light of prior negotiations. They quote telegram of August 1 to Cambon saying that three [sic—our?] demand seemed to lack precision; that Spanish Government supposed there was no question in regard to Spain's permanent sovereignty over archipelago and that occupation of Manila, its harbor and bay, by the United States would last only during the time necessary for two countries to agree on administrative reforms. They then refer to Cambon's interview with the President of August 3 and to dispatch of Spanish minister for foreign affairs of August 7, and say that never till now has the United States consented to give concrete form to the idea involved in the phrase "control, disposition, and government" of the Philippine Islands. If the United States meant that joint commission should determine the sovereignty of the group by agreeing or disagreeing to its cession to the United States, why did it not say so?

American commissioners say that word "control" must be construed in the sense of authority or command, because that is its broadest meaning in English, but fail to notice that the protocol was also written and signed in French, and that the French word "contrôle" means only investigation or inspection. The word "disposition," while it conveys the idea of alienation in private law, usually means in French distribution according to a certain and determined order. The word "government" may mean the right of administering or exercising sovereignty, but may also signify manner of governing or form which may be given to government. The words therefore do not possess a clear and precise meaning, incapable of doubt or ambiguity, and yet it was the United States, not Spain, that insisted upon retaining them and refused to explain them. Vattel, Volume III, page 197, declares that doubts must be resolved against him who gives the law in the treaty, since it is his fault not to have expressed himself with more clearness. The party who dictates conditions should not be allowed to convert vague or ambiguous terms into bonds to tie up the more feeble contracting party.

In the American note of July 30 it was said that if the terms offered by the United States were accepted in their entirety commissioners would be appointed to settle the details of treaty of peace, etc. Could unexpressed demand for cession of immense territory, with a population of 9,000,000 inhabitants, have been considered as a detail of the treaty? Spanish commissioners here review at some length interviews of Cambon with the President and compare versions thereof, and contend that by the note of Spanish Minister for Foreign Affairs of August 7 Government reserved *a priori* its sovereignty over Philippine Islands, and that Article III of the protocol can in law bind it only with this reservation, which was never withdrawn. They say that the only objection made in our note of August 10 to Spanish note of August 7 was that the latter was not entirely explicit, owing to various transformations which it had undergone. This, they maintain, could not have referred to paragraph on Philippine Islands, since it explicitly reserved *a priori* Spanish sovereignty over the islands. The Paris conference is therefore authorized to determine only their internal régime.

Spanish commissioners then proceed to support their last proposals as to what should be done regarding Philippine Islands in the treaty of peace. They disclaim intention to assert that General Merritt and Admiral Dewey had knowledge of protocol when they took Manila on August 13, but refer to the Admiral's message to the governor of Manila of May 1 threatening to destroy city if all vessels, torpedo boats, and warships under the Spanish flag were not immediately surrendered, and say they presume this message will have no place in the chapter of history in which are recorded the services rendered to the cause of humanity of which there is so much ostentation in these days. They also refer to circumstances in connection with delay in taking Manila; that the number of insurgents about the city increased because of postponement of it, and complains of statement in American memorandum that the captain-general fled before the surrender. They maintain that our occupation of Manila pending the conclusion of the treaty of peace was intended and agreed upon merely by way of a guaranty, and that protocol makes no connection between future occupation of the place and the payment of a war indemnity.

They observe that the American commissioners do not in their memorandum argue that suspension of hostilities did not go into effect immediately, but that they endeavor to invalidate the Spanish claim as dilatory. They state that this claim was made twenty-three days after capitulation and inquire what law or practice forfeits such a claim unless presented before the twenty-three days reckoned from the act giving rise to it. Even if the claim had not been then presented, the Spanish commissioners might present it now, since they are empowered to ask for a faithful execution of the protocol. They quote from Wharton's International Law Digest that compacts between enemies should be specially adhered to as of immediate interest and duty, not only to the parties but to all mankind. They combat the argument that occupation of Manila under the protocol is same as or equivalent to a military occupation by conquest.

They contend that (occupation?) by force of a territory which surrenders through an act of war has a special name, which is "capitulation," and that to call by this name the occupation under the protocol in order to bring it within the terms of the illegal capitulation of Manila after the protocol was signed is an error never heretofore officially or scientifically made. They contend that occupation as a guaranty conveys no greater right than to maintain a military force in that territory till the performance of the principal obligation, and that the occupying party has therefore usually taken care even to stipulate for the taking of provisions for his forces. The occupation under the protocol can not be considered as a military one, since it was not effected by force not as the result of a belligerent operation. Moreover, it was after August 16, when the American commanders heard of the protocol, that they began to take possession by military force of the machinery of government, of the public moneys, revenues, and imposts.

Spanish commissioners say they might here bring the paper to a close did they not desire to find some way in harmony with sentiments of humanity and patriotism of both commissioners to remove obstacles to peace; this can be done only through the bona fides of both parties; the commissioners are equally divided. The United States does not go further than to claim that under the protocol it has right to ask for the sovereignty over Philippine Islands. It does not claim the right to order the cession to be made. Shall the negotiations then be broken off and hostilities renewed? Can not the good faith of the parties suggest some means of averting these terrible consequences? The commissioners might agree to leave the question of sovereignty over Philippine Islands for direct negotiations between the two Governments, and continue meanwhile the discussions of all other points to be embodied in the treaty. This method is, however, attended with the danger of the Governments failing to agree. The Spanish commissioners think it more sensible and more sure for the two commissions to agree to propose to their Governments an arbitrator or a tribunal of arbitration to determine the true sense in which Articles III and VI of the protocol should be taken.

If there is any controversy between nations which men of good will should endeavor to settle by justice and equity it is that of a difference as to the interpretation of a treaty. Sovereigns may refuse to submit to judgment of a third party that which affects their honor or even their amour propre, but in the modern and Christian world it is

inconceivable they should prefer covering earth with corpses and deluging it with human blood to submitting their own opinions on a matter so exposed to fallibility as the sense which a party to a treaty may desire to give it. The United States, say the Spanish commissioners, have to their glory taken among civilized peoples the initiative in appealing to the humane, rational, and Christian method of arbitration, rather than inflict bloody war. The senate of Massachusetts in 1835 approved the proposal for creation of an international court to settle all differences between countries. In 1851 Committee on Foreign Relations recommended insertion of arbitration clause in treaties, and the Senate approved a report in 1853.

In 1873 the Senate again, and in 1874 both Houses of Congress, reaffirmed this humanitarian aspiration; and finally, in 1888, not satisfied with having marked out a line of conduct so laudable, both Houses of Congress adopted joint resolution requesting the President to use his influence to induce governments maintaining diplomatic relations with the United States to submit questions that might arise between them in future to arbitration. The Spanish commissioners declare the hope that the case before the Paris conference will not lead the United States, by departing from such glorious precedents, to wish to settle the difficulty by the last means which among national and free beings is sadly inevitable, although it may never be lawful, in the absence of other means more humane and tending to preserve unalterable peace among men.

Our commissioners propose to reply to this and reaffirm their previous position, and to make, unless otherwise instructed, the proposal conveyed to you in my special of November 15, and give the Spanish commissioners a week in which definitely and finally to accept it.

MOORE.

Mr. Hay to Mr. Day.

[Telegram.]

WASHINGTON, November 18, 1898.

Dewey telegraphs entire island of Panay in possession of insurgents, except Iloilo, which is defended by 800 Spanish troops. Foreign citizens beg for American protection. Island of Negros has declared independence, and desires American protectorate.

Friday, 2 afternoon.

HAY.

Mr. Day to Mr. Ade.

[Telegram.]

PARIS, November 18, 1898.

(Special.—For the President.)

Secretary Moore has just sent telegram advising of Spanish reply received yesterday, translation finished this morning; also advised our intended course, which I hope you will approve. As to negotiations preceding protocol, there are sharp differences in some respects between

Cambon's reports, as quoted by Spanish commission, and my memoranda of same conversations, which, you remember, were made shortly after each interview, submitted to you, corrected, and transcribed in type-written form, which I have with me. You can read in connection with this [the] correspondence leading to protocol, pamphlet publication. Copy in the Department of State if you have not one at hand. After delivery [of] our note [of] July 30, to Duke de Almodovar, Cambon came to White House August 3. They quote from his report:

I availed myself of this declaration to request the President to have the kindness to state as precisely as possible his intentions in regard to the Philippine Islands. On this point I told him the answer of the Madrid Government was drawn up in such a way as to admit of all demands on the part of the United States and consequently of all kinds of apprehensions on the part of Spain in regard to her sovereignty. Mr. McKinley answered: "I do not want any misunderstanding to remain upon this subject, and neither of the two countries shall be the ones to be called upon to decide what are the permanent advantages we shall ask for in the archipelago and finally those to decide the intervention [controle], disposition, and government of the Philippine Island," and he added: "The Government of Madrid can rest assured that up to the present nothing against Spain has been settled *a priori* in my own mind, as I myself consider that nothing is decided against the United States."

My memorandum shows on same date, August 3:

Ambassador reported Spanish Government had received American answer; that it would be regarded by Spain as very severe, etc. French ambassador said there was a disposition to believe in Spain that United States intended to take the Philippine Islands group. That Government appreciated that reforms were necessary in the government; that American privileges be granted in the islands; but that Spanish suzerainty should not be interfered with was a matter that Spanish minister would insist upon. President answered that question of Cuba, Porto Rico, the Ladrones, and West Indies islands admitted of no negotiation; that the disposition of the Philippine Islands must depend upon the treaty that might be negotiated; and that he, the President, could not make any change in the terms heretofore submitted. The ambassador called attention to the wording of the note of July 30 as to possession of the city, bay, and harbor of Manila, to be retained during the pendency of the treaty, and asked what was to be done with them afterwards. President said that must depend upon the terms of the treaty. Ambassador inquired whether the United States had prejudged the matter of the Philippine Islands and the rights to be acquired therein by the United States." President said case has not been prejudged as far as concerns this Government or the Spanish Government. Whole matter would be left to the commissioners for negotiation to be settled by the treaty of peace. In the meantime the United States would insist upon holding Manila, as laid down in the note. Its disposition thereafter, as already said, would depend upon the terms of the treaty.

Spanish commissioners then take up Cambon's report [of] interview of July 30 and our note of that date presented to him for transmission to Spain. Spanish commissioners state Cambon's report as follows:

The demands formulated in Article III, I (Cambon) said to the President, are apt to endanger in Madrid the success of this preliminary negotiation, especially if the word "possession" is retained in conjunction with control and government of the Philippine Islands, as it seems to put in doubt from this moment the sovereignty of Spain over that colony. You will notice the President of the Republic told me that his demands in article first and second admitted of no discussion. "I (the President) leave it to the negotiators to decide the question of the Philippine Islands." Seeing that the President of the Republic was firm in not changing the terms of Article III, I made such an urgent appeal to his generosity as to secure his order to use the word "disposition" instead of "possession," as the former does not prejudge the result of negotiations and has not the comprehensive meaning which belongs to the other word.

My notes show that at that time, July 30—

The President said that as to the Philippine Islands the note expressed the purpose of this Government, and their final disposition would depend upon the treaty to be negotiated by the commissioners and ratified by the interested Governments. Am-

bassador read the paragraph concerning the Philippine Islands and characterized it as harsh. "These are very hard terms," said the ambassador, to which the President inquired in what particular. The ambassador suggested, in regard to the Philippine Islands, that it might be the acquiring by the United States of all of them, to which the President replied that that would be determined by the treaty. The ambassador said that if it was a station or commercial base, that might be conceded by Spain. Ambassador added particularly that the word "possession" translated in Spanish in such wise as to be regarded as an expression of a severe, threatening nature, and suggested a change in that word. He suggested at first the word "condition." The President said he would not change the word except for a word of a similar import or meaning. The word "disposition" being suggested, after considerable talk the President consented that that word, not changing the meaning, might be substituted for the word "possession." Indeed, the word "disposition" was the broader one of the two and would clearly include "possession." Accordingly the note was so changed without other changes, and was handed to French ambassador to be communicated to Spanish Government.

These reports, not difficult of reconciliation, have less difference than reports concerning interviews of August 9, when [the] Duke of Almodovar's note of August 7 was presented to the President. They quote Cambon as follows:

Duke ALMODOVAR:

Again has it been at the White House, in the presence of Mr. McKinley and at his express request, that I have communicated to the Secretary of State the note of August 7, in which your excellency declares that the Government of Spain accepts the conditions imposed by the United States. This reading visibly displeased the President of the Republic and Secretary of State. After a long silence, Mr. McKinley said to me: "I had asked of Spain the cession, consequently the immediate evacuation of the islands of Cuba and Porto Rico. Instead of the categorical acceptance I expected the Spanish Government addresses me a note in which it invokes the necessity of obtaining the approval of the Cortes. I can not lend myself to going into these considerations of an internal nature." I (Cambon) observed that the Government of Her Majesty in complying with its constitutional duties did no more than follow the President, upon whom like obligations are imposed, and that in his reply of July 30 he had expressly reserved the ratification by the Federal Senate.

The Spanish commissioners further quote:

President ended by answering Mr. Cambon, who questioned him as to the pledges of sincerity Spain might give, as follows: "There must be a means of putting an end to all misunderstanding. We might draw up a project which shall reproduce the conditions proposed to Spain in the same terms in which I have already framed them, and which shall establish the terms within which there shall be named on the one hand the plenipotentiaries charged with negotiating the treaty of peace in Paris and on the other hand the special commissioners intrusted with the determination of the details for the evacuation of Cuba and Porto Rico."

Spanish commissioners add the important comment:

Neither the President nor the Secretary of State advanced any reason for their displeasure other than the foregoing, and according to Mr. Cambon these gentlemen said nothing during the conversation respecting the said reservation made by Spain of her sovereignty over the archipelago, nor regarding anything else whatever save the reservation of the Spanish Government as to the approval of the Cortes.

My notes show, as to the part in reference to the Philippine Islands:

While in one part it (the note of August 7) stated its acceptance, in another it seemed to retain the full right of Spanish sovereignty with such reforms, etc., as that Government might see fit to grant. President said that the text of the note was not satisfactory to the United States. Ambassador said allowance must be made for difference (of) translations and for the desire of the Spanish Government to express regret at the loss of its colonies; that he (ambassador) was very confident the intention was to accept in full the terms of the United States. He asserted that it was a full and unqualified acceptance of the President's terms. It was then suggested that if this be true the best way to settle the matter was to put the terms in the shape of a definite protocol, which the President would authorize the Secretary of State to sign for the United States; the ambassador to submit to the Spanish Government its

exact terms and the answer to be had whether yes or no. If the Spanish Government accepted the protocol that would end all controversy. Ambassador concurred in this view and said that if the protocol was drawn up in a definite form he would submit it to the Spanish Government, and if authorized would execute on its part.

Spanish commissioners having heretofore asserted that the Secretary of State at Washington, in note of August 10, admitted that Spanish note of August 7 contained in its spirit an acceptance by Spain of conditions imposed by the United States, in answering this we quote in full in our last memorandum my note of that date. Spanish commissioners now say they correct former assertion, but had based it on a telegram from Mr. Cambon of August 11, in which he said:

DUKE: Upon transmitting to me the draft of the protocol, text of which I wired your excellency, Secretary of State addressed me a note, which might be epitomized as follows: "Although the note delivered yesterday at the White House conveys in its spirit an acceptance by Spain of the conditions proposed by the United States in its form, it does not so specify with sufficient explicitness, owing doubtless to its having to be translated and put in cipher several times."

This note, (the) Spanish commissioners say, led them into error, and they "nobly comply with the duty of so admitting."

In framing our answer we shall maintain our version is taken from the memoranda made by the then Secretary of State directly after the conversations, submitted to the President, by him revised, and then reduced to typewritten form; and likewise correspond with the recollection of the interviews now entertained by the President of the United States and the then Secretary of State. I shall be obliged for any comment you may see fit to make in reply thereto.

Friday, 1.30 afternoon.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

WASHINGTON, November 19, 1898.

The President approves your proposed action. His recollection of oral discussion preceding protocol coincides exactly with yours.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 26.]

PARIS, November 21, 1898.

We presented this afternoon our proposal as telegraphed you in our No. 24. We expressed expectation of American commissioners that final and definite answer be given not later than 28th instant. Also submitted answer to Spanish [contention?] as to the construction of protocol. They said we should have answer on Wednesday.

Monday evening, 9.

DAY.

Mr. Day to Mr. Adeo.

[*Telegram.*]

PARIS, November 22, 1898.

(For the President—Special.)

If the Spanish commissioners refuse our proposition to-morrow we shall give notice that our offer was final and nothing remains except to close the negotiations.

Tuesday, 2.20 afternoon.

DAY.

Mr. Hay to Mr. Day.

[*Telegram.*]

Special.]

DEPARTMENT OF STATE,

Washington, November 22.

Your special to the President, dated to-day, received. Your proposed action approved.

HAY.

Mr. Day to Mr. Hay.

No. 26.]

PARIS, November 23, 1898.

Spanish commissioners did not answer our proposal to-day. Sent note saying wanted time to communicate with Madrid. Will give answer soon, certainly before 28th.

Wednesday evening, 10.30.

DAY.

Mr. Moore to Mr. Hay.

[*Telegram.*]

No. 27.]

PARIS, November 25, 1898.

(Received 2.05 p. m.)

President of our commission received last night from the president of the Spanish commission a communication submitting for adoption, in lieu of our final proposition of last Monday, any one of three following alternative propositions:

First, relinquishment by Spain of her sovereignty over Cuba and cession of Porto Rico and other Antilles, the island of Guam, in the Ladrones, and the Philippine Islands archipelago, including Mindanao and Sulu, to the United States, the latter paying to Spain the sum of \$100,000,000 as compensation for her sovereignty over the archipelago and the works of public utility she has executed during her rule in all the islands of the East and West, the sovereignty over which she relinquishes or cedes.

Second, cession to the United States of the island of Kusaie, in the Carolines, of the right to land a cable on any of these or of the Marianas while they remain under Spanish rule, and cession of Philippine

Islands archipelago proper; that is, beginning on the north, the islands of Batanes, Babuyanes, Luzon, Visayas, and all the others, following to the south as far as the Sulu Sea, Spain reserving to the south of this sea the islands of Mindanao and Sulu, which have never formed a part of the Philippine Islands archipelago proper. The United States, as compensation for said islands, for the right to land cables, and for the public works executed by Spain in said islands during her rule, will pay to Spain the sum of \$50,000,000.

Third, Spain relinquishes her sovereignty over Cuba and gratuitously cedes to the United States the Philippine Islands Archipelago proper, besides Porto Rico, the other West Indies, and the island of Guam, which she cedes as compensation for the expenses of the war and as indemnity to American citizens for injuries suffered since the beginning of the last Cuban insurrection. The United States and Spain will submit to an arbitral tribunal what are the debts and obligations of a colonial character which should pass with the islands the sovereignty over which Spain relinquishes and cedes.

On these propositions the commissioners hold the following views: Messrs. Day, Davis, and Reid think we are committed to our final proposition of last Monday; Commissioners Frye and Gray favor submitting a proposal to leave to Spain Mindanao and Sulu group and take instead Ualan or Strong Island in the Carolines, paying only \$20,000,000. Mr. Day would favor this if it were an original proposition. He believes that Mindanao and the Sulu group can be readily separated from the other islands, and that, with their population, they are likely to be a source of trouble and expense and are not desirable for us. He thinks Ualan or Strong Island would be very valuable to us, and he would prefer it. He also thinks that this concession would probably bring a treaty, and that it may be that our present ultimatum will; but, as already stated, he thinks our only consistent course now is to stand by that ultimatum. Commissioner Gray prefers, above all, acceptance of third proposition.

Our commissioners desire to answer president of Spanish commission to-morrow.

Friday afternoon, 4.30.

MOORE.

Mr. Davis to Mr. Hay.

[Telegram.]

No. 28.]

PARIS, November 25, 1898.

I desire to add to my views, as stated in Mr. Moore's telegram, that I think the propositions there stated are an afterthought contrived to protract and embarrass the negotiations after Spain had received our deliberate ultimatum, which has been given out as such to our people and to the world. The United States, having so taken its position, ought not to recede. I think that Spain will accept our ultimatum if we firmly insist upon it.

Friday afternoon, 5.

C. K. DAVIS.

Mr. Gray to Mr. Hay.

[Telegram.]

No. 29.]

Nov. 25, 1898.

Our having submitted an ultimatum does not in my opinion preclude us from adopting a course that will prove more advantageous to our country. My reasons for accepting third proposition in the letter of the president of the Spanish commission are, briefly, that in paying twenty millions we do not prevent the raising hereafter of the question of the liability of the sovereign of the relinquished and ceded territory for some part of the so-called colonial debts. When raised we must either flatly refuse to consider it and take the consequences, or must arbitrate. We have nothing to fear from arbitration, but have much to gain in moral prestige and maintenance of our preeminence in recognizing the obligations of international law. By adopting this course we pay nothing to Spain, and settle instead of postpone the question of liability and carry the principle of arbitration with us into the new century.

GEORGE GRAY.

Mr. Hay to Mr. Day.

[Telegram.]

WASHINGTON, November 25, 1898.

(Sent 12 midnight.)

The President has considered the three proposals of the president of the Spanish commission submitted to you. He finds no reason for departing from his last instruction and your proposal thereunder. His instructions are that you adhere to your last proposal and decline those of the Spanish commission.

He repeats his instruction of November 13, by which you are authorized, in case of cession of an island in Carolines and other concessions mentioned by Messrs. Frye and Reid, to offer additional compensation. If negotiations in regard to Philippines are successful, you will communicate to the President what amount is required for Strong Island, and he will instruct you.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

PARIS, November 27, 1898.

Paris Herald to-day publishes telegram from Washington saying we have increased our demand to include Sulu group. This incorrect report tends to create impression that we are increasing our claims after ultimatum.

Sunday night, 12.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 31.]

PARIS, November 29, 1898.

Spanish commissioners at to-day's conference presented a definite and final acceptance of our last proposition. Next meeting on Wednesday, at which time we will present articles on other matters. They expressed a desire to reach a conclusion promptly. We hope to make good progress from this time.

Monday afternoon, 3.15.

DAY.

The President to Mr. Day.

[Telegram.]

EXECUTIVE MANSION,
Washington, November 29, 1898.

Message just received. The commissioners have my profound thanks.

WILLIAM MCKINLEY.

Mr. Hay to Mr. Day.

[Telegram.]

WASHINGTON, November 29, 1898.

In reviving conventional arrangements do not lose sight of copyright agreement.

HAY.

Mr. Hay to Mr. Day.

[Telegram.]

WASHINGTON, November 29, 1898.

The President wishes to know the opinion of the commission as to inserting in treaty provisions on the subject of citizenship of inhabitants of Philippines which will prevent extension of that right to Mongolians and others not actually subjects of Spain; also whether you consider it advisable to provide, if possible, for recognition of existence of uncivilized native tribes in same manner as in Alaska treaty, perhaps leaving to Congress to deal with status of inhabitants by legislative act.

HAY.

Mr. Moore to Mr. Hay.

[Telegram.]

No. 32.]

PARIS, November 29, 1898.

The American commissioners propose to offer Spain, for cession of Kusaie and concession of cable-landing rights in other Spanish territory, the sum of a million dollars.

Tuesday afternoon, 12.30.

MOORE.

Mr. Moore to Mr. Hay.

[Telegram.]

No. 33.]

PARIS, November 30, 1898.

Joint Commission to-day discussed draft of treaty. We proposed to apply to the Philippine Islands provisions agreed on by the commissioners for the evacuation of Porto Rico. Spanish commissioners raised the question as to whether any agreement was reached as to heavy ordnance in fortifications and as to war materials, and expressed a desire for retention of such ordnance and materials in the Philippine Islands and also in Porto Rico, if not agreed on by commissioners. Can you cable us evacuation agreement as to Porto Rico?

We tendered admission of Spanish ships and merchandise in Philippine Islands on same terms as our own for a period of ten years. Spanish commissioners propose extension of this privilege to their ships and merchandise in Porto Rico for same period and in Cuba during our occupation. On this proposal, Messrs. Day and Gray express the view that if Spanish commissioners will agree to cede Kusaie for amount proposed, grant religious freedom in Carolines, and promptly sign treaty as tendered by us, they would concede extension of privileges granted to Spanish ships and merchandise in Philippine Islands to Porto Rico for five years and Cuba during our occupation, but not to exceed five years. In such case they consider it a not unreasonable concession to ancient habitudes and to Spanish commerce prostrated by war. It is not clear to them that such a concession in a treaty acquiring territory would open the favored-nation door. For precedents for such action on the part of the United States see sixth article of the treaty with Spain for the annexation of Florida in 1819, and seventh article of the treaty for cession of Louisiana in 1803. Mr. Davis states that he is opposed on principle to granting to Spain as to Porto Rico and Cuba the commercial and shipping privileges which she requests. He thinks it should not be a subject of these negotiations, but that it should be dealt with by Congress. Does not believe that these concessions are necessary to secure a treaty. Thinks favored-nation clause would entitle certain other nations to same privileges we grant to Spain.

Mr Frye declares he is most emphatically opposed to this proposition. Kusaie, even without any money payment, would in his opinion be no compensation for this privilege. Mr. Reid objects to commission's taking initiative on a subject (in) no way covered by our instructions, especially as proposed action would endanger the future

extension of present long-standing policy of Government to Porto Rico and Cuba. He thinks no step of such gravity should be proposed here without action of President, if not also of Congress. Commissioners desire instructions on this subject.

Next joint meeting to-morrow 3 p. m. We have agreed to mutual release of prisoners and return to their country by party releasing them.

Wednesday, 8.30 evening.

MOORE.

Mr. Hay to Mr. Day.

[Telegram.]

WASHINGTON, December 1, 1898.

Your No. 33 received.

It was held by us in Porto Rico that the armament of forts, fortifications, and fixed batteries were to be included in the surrender and taken over into the possession of the United States. The Spanish army was to take with it small arms and accouterments, batteries of field artillery of 9 centimeters caliber, supply and baggage wagons, ambulances, and other impedimenta.

The President thinks it undesirable to include in treaty any preferential privileges to Spain in Cuba or Porto Rico; and if such privileges tendered by you in Philippines are accepted, care should be taken to avoid possible embarrassments to legislation by Congress, or demands by other governments under favored-nation clause.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 35.]

PARIS, December 1, 1898.

At this time (Thursday, 8.30 p. m.) we have received no answer to our telegram asking for instruction as to Spanish rights in ports of Cuba and Porto Rico, and concerning Kusaie. It is important to have same to-morrow.

Thursday evening, 9.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

EXECUTIVE MANSION,
Washington, December 1, 1898.

Reply sent before receipt of your 35.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 36.]

PARIS, December 3, 1898.

We are unanimously of opinion that unless we are invested with discretion to allow for a limited period, not exceeding five years, Spanish vessels coming laden only with productions of Spanish growth and manufacture directly from the ports of Spain or of her colonies to enter ports of Cuba and Porto Rico without paying other or higher duties on cargoes or tonnage than are paid by the United States vessels, it may be impracticable to obtain anything not contained in our ultimatum and therefore necessarily forming subject of mutual concession, such as Kusaie, and religious freedom in Carolines, the release of political prisoners, cable-landing rights, and revival of treaties in force between the two countries before the war. The privilege above mentioned is different from and much more restricted than that referred to in our telegram of 30th ultimo, and is in conformity with precedents cited in that telegram from Florida and Louisiana treaties. Early answer desirable.

Saturday afternoon, 3.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DECEMBER 3, 1898 (midnight).

The President is still of opinion that preferential privileges to Spain in Porto Rico and Cuba are not desirable. He would even prefer that treaty should be made on basis of ultimatum rather than risk the embarrassments which might result from such concessions.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 37.]

PARIS, December 8, 1898.

At the session to-day we agreed upon all the articles of the treaty so far as an agreement could be reached. They refused to sell Kusaie. Will send you a summary to-morrow as soon as the treaty is engrossed. We meet to sign in duplicate; think we can sign on Saturday of this week.

Thursday afternoon, 5.20.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 8, 1898.

Your No. 37 received. The President sends to all of you his most cordial thanks and congratulations. Permit me to add my own.

JOHN HAY.

Mr. Moore to Mr. Hay.

[Telegram.]

PARIS, December 10, 1898.

Treaty as agreed on will consist of preamble and seventeen articles, as follows:

First. Relinquishment of sovereignty over Cuba and the assumption by the United States of any obligation under international law for the protection of life and property during occupation.

Second. Cession of Porto Rico and the other islands and Guam.

Third. Cession of Philippine Islands Archipelago and the payment of twenty millions within three months after the exchange of ratifications.

Fourth. Admission of Spanish ships and merchandise to Philippine Islands for ten years on the same terms as American ships and merchandise.

Fifth. Evacuation of Philippine Islands by Spain; immediate return of Spanish soldiers at Manila by the United States to Spain; disposition of war material and armaments in Philippine Islands and Guam.

Sixth. General release and return of prisoners, military and political.

Seventh. Mutual relinquishment of claims arising since the beginning of the insurrection in Cuba and before the exchange of ratifications, the United States to adjudicate and settle claims of its own citizens.

Eighth. Transfer of public property, archives, records.

Ninth. Citizenship in relinquished and ceded territories. Spanish subjects, natives of the peninsula, may, within a year, elect to retain Spanish nationality. Civil rights and political status of native inhabitants of ceded territories to be determined by Congress.

Tenth. Protection of all persons in their religion.

Eleventh. Jurisdiction of courts.

Twelfth. Preservation of pending judicial proceedings.

Thirteenth. Protection of copyrights and patents in ceded and relinquished territories.

Fourteenth. Appointment of consuls by Spain in such territories.

Fifteenth. Each country to accord to merchant vessels of other same treatment as to its own in respect of port charges.

Sixteenth. Any obligations assumed by the United States as to Cuba limited to time of occupation, but the United States will at the end of occupancy advise any government established in Cuba to assume same obligations.

Seventeenth. The exchange of ratifications at Washington within six months after signature of treaty.

Treaty expected to be signed this afternoon.

MOORE.

Mr. Day to Mr. Hay.

[Telegram.]

PARIS, December 10, 1898.

Treaty signed at 8.50 this evening.

DAY.

Mr. Moore to Mr. Hay.

[Telegram.]

PARIS, December 16, 1898.

Peace Commission sails by the *St. Louis* from Southampton Saturday, and desires on arrival at New York to go immediately by the Pennsylvania road, by special train, if necessary, to Washington. The commission hopes to present the treaty to the President December 24.

MOORE.

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